

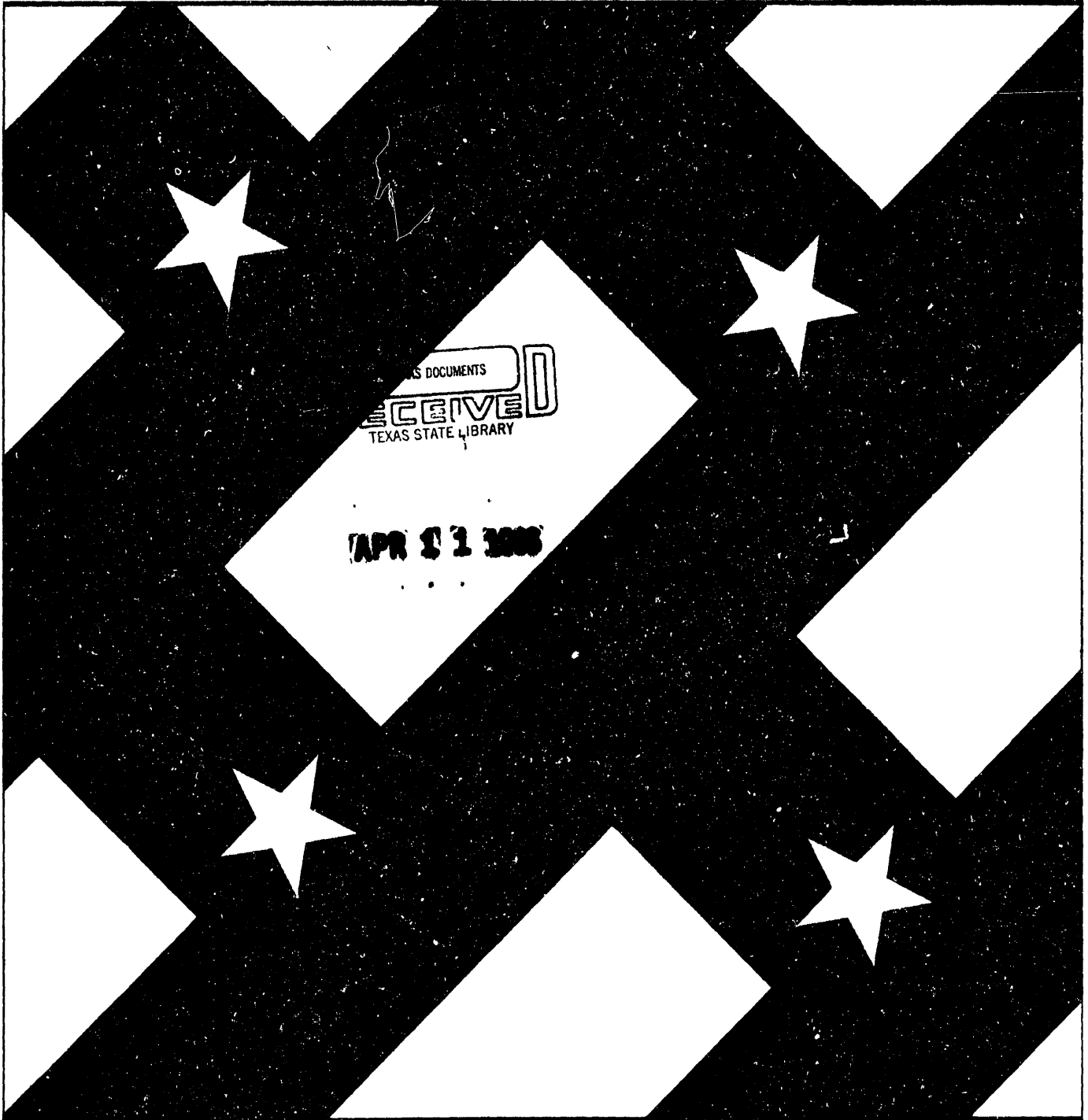
S500.6
R263
11:28

FILE COPY

Texas Register

Volume 11, Number 28, April 11, 1986

Pages 1695-1770



Highlights

The Public Utility Commission of Texas adopts an emergency amendment concerning the cost of service. Effective date - April 4 ... page 1702

The Texas Department of Health adopts an emergency amendment concerning medical eligi-

bility in maternal and child health services. Effective date - April 4page 1702

The Texas Water Commission proposes new sections concerning water quality management in the Lakes Austin and Travis watersheds. Earliest possible date of adoption - May 12 ... page 1713

Office of
the Secretary
of State

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1986 with the exception of June 24, September 2, December 2, and December 30 by the Office of the Secretary of State.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas, and additional entry offices.

POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

Information Available: The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, quarterly, and annual indexes to aid in researching material published.

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "11 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 11 TexReg 3."

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule number, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How To Cite: Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



Texas Register Publications

a division of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5561

Myra A. McDaniel Secretary of State

Director

Dan Procter

Documents Section Coordinator
Cynthia Cooke

Document Editors

Molly Gardner

Sabra Noyes

Jane Orcutt

Document Filing

Lainie Crease

Denise Roberts

Production Editors

Jody Allen

Lisa Bauer

Typographers

Dawn VanCleave

Glynn Fluitt

Hollis Glaser

Circulation Section Coordinator
Dee Wright

Circulation Assistant
Kristine Hopkins Mohajer

TAC Editor

W. Craig Howell

Subscriptions—one year (96 regular issues and four index issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues of the *Texas Register* are available at \$3.00 per copy.

Table of Contents

The Governor

Appointments Made April 1

1701— Governor's Committee for Disabled Persons

1701— State Board of Insurance

Appointment Made April 2

1701— Texas Motor Vehicles Commission

Appointments Made April 3

1701— Board of Regents, Texas Southern University

1701— Texas Motor Vehicles Commission

Emergency Rules

Public Utility Commission of Texas

1702— Substantive Rules

Texas Department of Health

1702— Maternal and Child Health Services

General Land Office

1703— Land Resources

Proposed Rules

Public Utility Commission of Texas

1704— Substantive Rules

State Board of Barber Examiners

1704— Practice and Procedure

Texas Department of Health

1706— Maternal and Child Health Services

Texas Water Commission

1712— Watershed Protection

Texas Water Development Board

1717— Rules Relating to Financial Programs

1735— Purchased Health

1739— Early and Periodic Screening, Diagnosis, and Treatment

Withdrawn Rules

Public Utility Commission of Texas

1742— Substantive Rules

General Land Office

1742— Executive Administration

Texas Water Development Board

1742— Rules Relating to Financial Programs

Adopted Rules

Texas Department of Agriculture

1744— Seed Certification Standards

Texas Sesquicentennial Commission

1744— General Operating Policy

1744— Program Guidelines

Texas State Board of Public Accountancy

1745— Licenses

General Land Office

1745— Executive Administration

Texas Parks and Wildlife Department

1746— Wildlife

Comptroller of Public Accounts

1746— Tax Administration

Teacher Retirement System of Texas

1746— Benefits

Texas Commission on Jail Standards

1746— Classification and Separation of Inmates

Texas Department of Human Services

1747— County Indigent Health Care Program

1752— Primary Home Care

1752— CCAD

1753— Day Activity and Health Services

Open Meetings

1754— Texas Aeronautics Commission

1754— Texas Commission on Alcohol and Drug Abuse

1754— State Bar of Texas

1755— Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

1755— Texas Conservation Foundation

1755— Texas Commission for the Deaf

1755— Coordinating Board Texas College and University System

1755— Texas Commission on Economy and Efficiency in State Government

1755— Texas Education Agency

1756— Texas Employment Commission

1756— Texas Department of Health

1757— Texas Historical Commission

1757— Texas Housing Agency

1757— University of Houston System

1757— Texas Indian Commission

1757— State Board of Insurance

1758— Texas Department of Labor and Standards

1758— Lamar University System

1759— Legislative Education Board

1759— Texas State Board of Medical Examiners

1759— Board of Pardons and Paroles

1760— Polygraph Examiners Board

1760— Public Utility Commission of Texas

1760— Railroad Commission of Texas

1761— Texas Real Estate Commission

1761— Texas Real Estate Research Center

1761— Texas Rehabilitation Commission

1761— House of Representatives

1762— Texas Savings and Loan Department

1762— University System of South Texas

1762— The University of Texas System

1762— Texas Water Commission

1763— Regional Agencies

In Addition

State Banking Board

1765— Correction of Error

1765— Notice of Hearing

Banking Department of Texas

1765— Application to Acquire Control of a State Bank

Texas Department of Community Affairs
1765— Amendment to Contract Award
Office of Consumer Credit Commission
1766— Notice of Rate Ceilings
Office of Court Administration
1766— Consultant Contract Award
General Land Office
1766— Correction of Error
Texas Department of Health
1766— Texas Regulations for Control of
Radiation
Texas Department of Human Services
1767— Amended Consultant Contract Award
Texas State Library and Archives Commission
1767— Consultant Contract Reports

**Texas Low-Level Radioactive Waste Disposal
Authority**
1768— Notice of Contract Award
North Central Texas Council of Governments
1768— DART Transit Education Development
Curriculum Program
Texas State Board of Pharmacy
1768— Correction of Error
State Securities Board
1768— Correction of Error
Southwest Texas State University
1769— Consultant Contract Award
Texas State Treasury Department
1769— Notice of Award of Consulting Contract
Texas Water Commission
1769— Enforcement Order

TAC Titles Affected

TAC Titles Affected—April

The following is a list of the administrative rules that have been published this month.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

| | |
|---------------|------|
| 4 TAC §21.11 | 1744 |
| 4 TAC §21.51 | 1744 |
| 4 TAC §23.13 | 1680 |
| 4 TAC §23.22 | 1680 |
| 4 TAC §23.41 | 1681 |
| 4 TAC §23.100 | 1681 |

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

| | |
|--------------------------------------|------|
| 7 TAC §91.205 | 1603 |
| 7 TAC §91.506 | 1648 |
| 7 TAC §95.4, §95.5 | 1648 |
| 7 TAC §§95.101-95.103 | 1648 |
| 7 TAC §§95.201-95.204 | 1648 |
| 7 TAC §95.202 | 1649 |
| 7 TAC §95.204 | 1649 |
| 7 TAC §95.206 | 1649 |
| 7 TAC §95.207 | 1649 |
| 7 TAC §§95.301-95.306, 95.308-95.313 | 1649 |
| 7 TAC §95.313 | 1650 |
| 7 TAC §95.112 | 1650 |

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

| | |
|----------------------------|------|
| 10 TAC §§9.1, 9.2, 9.6-9.8 | 1603 |
|----------------------------|------|

TITLE 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

| | |
|--------------------|------|
| 13 TAC §§51.1-51.7 | 1744 |
| 13 TAC §§53.1-53.4 | 1744 |

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

| | |
|--------------|------|
| 16 TAC §3.14 | 1601 |
|--------------|------|

Part II. Public Utility Commission of Texas

| | |
|---------------|------------------|
| 16 TAC §23.21 | 1702, 1704, 1742 |
|---------------|------------------|

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

| | |
|-----------------------|------|
| 22 TAC §3.122, §3.123 | 1640 |
|-----------------------|------|

Part II. State Board of Barber Examiners

| | |
|---------------|------|
| 22 TAC §51.53 | 1704 |
| 22 TAC §51.84 | 1705 |
| 22 TAC §51.85 | 1705 |

Part V. State Board of Dental Examiners

| | |
|---------------|------|
| 22 TAC §115.3 | 1607 |
|---------------|------|

Part XXII. Texas State Board of Public Accountancy

| | |
|----------------|------|
| 22 TAC §511.21 | 1640 |
| 22 TAC §515.4 | 1745 |
| 22 TAC §515.5 | 1745 |
| 22 TAC §515.6 | 1745 |
| 22 TAC §519.27 | 1650 |
| 22 TAC §523.62 | 1650 |

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

| | |
|---|------|
| 25 TAC §§37.83-37.91, 37.93, 37.96, 37.97 | 1706 |
| 25 TAC §37.97 | 1702 |
| 25 TAC §133.21 | 1685 |

| | |
|---------------|------|
| 25 TAC §289.1 | 1616 |
|---------------|------|

TITLE 28. INSURANCE

Part I. State Board of Insurance

| | |
|------------------------|------|
| 28 TAC §§27.401-27.407 | 1641 |
| 28 TAC §§27.501-27.506 | 1641 |

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

| | |
|--------------|------------|
| 31 TAC §1.91 | 1742, 1745 |
| 31 TAC §13.1 | 1703 |

Part II. Texas Parks and Wildlife Department

| | |
|---|------|
| 31 TAC §53.8, §53.9 | 1607 |
| 31 TAC §§65.6, 65.15, 65.17, 65.33, 65.46, 65.61-65.63, 65.71, 65.78, 65.81 | 1608 |
| 31 TAC §§65.400-65.406 | 1746 |
| 31 TAC §§65.601-65.614 | 1685 |

Part III. Texas Air Control Board

| | |
|----------------|-----|
| 31 TAC §101.24 | 651 |
|----------------|-----|

Part IX. Texas Water Commission

| | |
|-------------------------|------|
| 31 TAC §§311.1-311.5 | 1712 |
| 31 TAC §§311.11-311.15 | 1713 |
| 31 TAC §311.21, §311.22 | 1714 |
| 31 TAC §§311.31-311.36 | 1715 |
| 31 TAC §§311.41-311.44 | 1716 |

Part X. Texas Water Development Board

| | |
|---------------------------|------------|
| 31 TAC §§355.101-355.110 | 1653 |
| 31 TAC §§363.1-363.4 | 1718, 1742 |
| 31 TAC §§363.31-363.37 | 1720, 1742 |
| 31 TAC §§363.52-363.60 | 1722, 1742 |
| 31 TAC §§363.81-363.85 | 1726, 1742 |
| 31 TAC §363.111, §363.112 | 1728, 1743 |
| 31 TAC §§363.161-363.165 | 1729, 1743 |
| 31 TAC §363.181 | 1730, 1743 |
| 31 TAC §§367.1-367.3 | 1620 |
| 31 TAC §§367.21-367.30 | 1620 |
| 31 TAC §§367.41-367.50 | 1620 |

Part XVII. Soil and Water Conservation Board

| | |
|-----------------------|------|
| 31 TAC §§521.1-521.11 | 1686 |
|-----------------------|------|

TITLE 34. PUBLIC FINANCE

Part III. Teacher Retirement System of Texas

| | |
|---------------|------|
| 34 TAC §29.26 | 1746 |
|---------------|------|

Part IV. Employees Retirement System

| | |
|---------------|------|
| 34 TAC §73.15 | 1642 |
|---------------|------|

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

| | |
|-----------------------|------|
| 37 TAC §23.13 | 1681 |
| 37 TAC §23.51, §23.52 | 1682 |
| 37 TAC §23.61 | 1682 |
| 37 TAC §23.71, §23.73 | 1683 |

Part VIII. Commission on Fire Protection Personnel Standards and Education

| | |
|----------------|------|
| 37 TAC §233.43 | 1601 |
|----------------|------|

Part IX. Texas Commission on Jail Standards

| | |
|---------------|------|
| 37 TAC §271.2 | 1746 |
|---------------|------|

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

| | |
|------------------------|------|
| 40 TAC §14.1, §14.2 | 1733 |
| 40 TAC §§14.101-14.109 | 1747 |
| 40 TAC §§14.201-14.205 | 1750 |

| | |
|---------------------------------|------|
| 40 TAC §14.301, §14.302 | 1752 |
| 40 TAC §16.1103 | 1683 |
| 40 TAC §16.1503 | 1654 |
| 40 TAC §16.6111, §16.6118 | 1655 |
| 40 TAC §§29.101-29.104 | 1736 |
| 40 TAC §29.310 | 1737 |
| 40 TAC §§29.401-29.403 | 1737 |
| 40 TAC §29.502 | 1737 |
| 40 TAC §29.601 | 1642 |
| 40 TAC §29.603, §29.604 | 1738 |
| 40 TAC §29.606, §29.607 | 1643 |
| 40 TAC §29.1001 | 1738 |
| 40 TAC §29.1102 | 1738 |
| 40 TAC §29.1112 | 1739 |
| 40 TAC §§29.1501-29.1504 | 1739 |
| 40 TAC §29.9802 | 1644 |
| 40 TAC §§33.401-33.405 | 1739 |

| | |
|-----------------------|------|
| 40 TAC §47.3901 | 1752 |
| 40 TAC §48.5909 | 1752 |
| 40 TAC §50.2903 | 1753 |

Part III. Texas Commission on Alcohol and Drug Abuse

| | |
|--|------|
| 40 TAC §§153.4, 153.32, 153.36, 153.38, 153.41 | 1645 |
| 40 TAC §265.1 | 1646 |
| 40 TAC §265.1 | 1646 |

Part XII. Texas Advisory Board of Occupational Therapy

| | |
|---------------------|------|
| 40 TAC §361.2 | 1655 |
| 40 TAC §363.1 | 1655 |
| 40 TAC §367.1 | 1655 |
| 40 TAC §374.1 | 1656 |
| 40 TAC §379.1 | 1656 |

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made April 1

Governor's Committee for Disabled Persons

For a term to expire July 8, 1987, serving at the pleasure of this governor:

Sandra Bailey
4530 Catto
Waco, Texas 76710

Ms. Bailey is replacing H. Thomas Morrison of Dallas, whose term expired.

State Board of Insurance

For a term to expire January 31, 1989:

Catherine Brown Fryer
5504 Woodview
Austin, Texas 78756

Ms. Fryer is replacing Carol Keeton Rylander of Austin, who resigned.

Issued in Austin, Texas, on April 1, 1986.

TRD-8603190

Mark White
Governor of Texas

★ ★ ★

Appointment Made April 2

Texas Motor Vehicles Commission

For a term to expire January 31, 1991:

John R. Cook
P.O. Box 1735
Breckenridge, Texas 76024

Mr. Cook is replacing George C. Miller of Lubbock, whose term expired.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603190

Mark White
Governor of Texas

★ ★ ★



Appointments Made April 3

Board of Regents, Texas Southern University

For a term to expire February 1, 1989:

J. Kent Friedman
1900 Republic Bank Center
700 Louisiana Street
Houston, Texas 77002

Mr. Friedman is replacing Dr. Larry J. Greenfield of Houston, who resigned.

Texas Motor Vehicles Commission

For a term to expire January 31, 1991:

Eddie Bradley
P.O. Box 8999
Amarillo, Texas 79114

Mr. Bradley is replacing Ted D. Treadaway of Richardson, whose term expired.

Issued in Austin, Texas, on April 3, 1986.

TRD-8603190

Mark White
Governor of Texas

★ ★ ★

Emergency

Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency rules. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility

Commission of Texas

Chapter 23. Substantive Rules Rates

★ 16 TAC §23.21

The Public Utility Commission of Texas adopts on an emergency basis an amendment to §23.21, concerning cost of service. The commission has determined that this action is necessary because one nuclear plant (Palo Verde #1) may have already met commercial operation criteria and another (River Bend #1) is in advanced testing stages. Determining when these and other nuclear plants attain or have attained commercial operation determines whether they can be considered for inclusion as plant in service from construction work in progress. That determination has a major impact on the rates of the utilities that own the plants.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and to make decisions with respect to administering the provisions of this Act.

§23.21. *Cost of Service.*

(a)-(b) (No change.)

(c) Return on invested capital. The return on invested capital is the rate of return times invested capital.

(1) (No change.)

(2) Invested capital; rate base. The rate of return is applied to the rate base. The rate base, sometimes referred to as invested capital, includes as a major component the original cost of plant, property and equipment, less accumulated depreciation, used and useful in rendering service to the public. Components to be included in determining the overall rate base are as follows:

(A)-(D) (No change.)

(E) Nuclear plant in service. A nuclear generating unit shall not be eligible for inclusion in a utility's rate base as plant in service until such time as the unit has been determined by the commission to be in commercial operation. Such a determination of commercial operation is separate and apart

from, and bears no relationship to, issues such as prudent and efficient planning and management, excess capacity, or whether the unit meets the test of used and useful, and shall not be construed as satisfying the utility's burden of proof as to such other issues in the same or subsequent proceedings. A utility seeking a determination that such a unit is in commercial operation must:

(i) prove that the preoperational testing program, consisting of those tests conducted following completion of construction and construction-related inspections and tests, but prior to fuel loading, to demonstrate, to the extent practical, the capability of structures, systems, and components to meet performance requirements to satisfy design criteria, has been completed with all test deficiencies corrected;

(ii) prove that the startup test program, consisting of those test activities scheduled to be performed during and after fuel loading that confirm the design bases and demonstrate, to the extent practical, that the plant will operate in accordance with design, has been completed;

(iii) prove that the unit has furnished power to the grid for an uninterrupted period of 100 hours, or the run duration period required by the full warranted output performance test of the nuclear steam supply system, whichever is greater, at a power level between 95-100% of the unit's net electrical output, as used for the purpose of plant design;

(iv) prove that the plant and associated transmission facilities can supply to the utility's Texas customers their full share of the unit's rated power with the single most critical transmission line out of service;

(v) prove that the unit is supplying electricity to the utility's customers, with output scheduled by the load dispatcher subject to plant availability; and

(vi) file with the commission, at the time such determination is requested, a fully documented explanation of the cause of each unscheduled and unanticipated delay of 100 hours or more in the preoperational or startup test programs, and each Nuclear Regulatory Commission notice of violation received, together with fully documented descriptions of the measures taken by the utility to correct and prevent reoccurrence of the incident which caused delay and the measures taken in response to the notice of violation.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603224

Rhonda Colbert Ryan
Secretary
Public Utility Commission
of Texas

Effective date: April 4, 1986
Expiration date: August 2, 1986
For further information, please call
(512) 458-0251.

★ ★ ★

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Crippled Children's Services Program

★ 25 TAC §37.97

The Texas Department of Health adopts on an emergency basis an amendment to §37.97, concerning medical eligibility criteria. The amendment expands the medical eligibility criteria for the Crippled Children's Services Program. The reason for the emergency adoption is that certain children will no longer qualify medically for program services after March 31, 1986, if the additional medical criteria are not approved by this date. The extensions are closely related to coverable conditions and will provide more comprehensive coverage to eligible children. These conditions include neoplasms; endocrine, nutritional, metabolic, and immunity disorders; diseases of blood and blood-forming organs; neurological disorders; otological conditions; cardiac conditions, respiratory system; gastrointestinal disorders; musculoskeletal conditions; and other categories of diagnoses not already specified in other body systems. This section is also proposed for permanent adoption in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 6252-13a, §5(d), which authorize the department to adopt emergency rules, and Article 4419c, §8, which provide the Texas Board of Health with the authority to adopt rules to implement the Crippled Children's Services Program.

§37.97. *Medical Eligibility Criteria.* The department adopts by reference the medical eligibility criteria published by the department, as amended in April 1986. A copy of the medical eligibility criteria is indexed and filed in the Bureau of Crippled Children's Services, Texas Department of Health, 1101 East Anderson Lane, Austin, Texas, and is available for public inspection during regular working hours.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603254

Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: April 7, 1986
Expiration date: August 5, 1986
For further information, please call
(512) 465-2680.

★ ★ ★

**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION**
Part I. General Land Office
Chapter 13. Land Resources
Rules, Practice, and Procedure
for Land Leases and Trades

★31 TAC §13.1

The General Land Office is renewing the effectiveness of the emergency adoption of amended §13.1 for a 60-day period effective April 12, 1986. The text of the amended §13.1 was originally published in the December 20, 1986, issue of the *Texas Register* (10 TexReg 4881).

Issued in Austin, Texas, on April 7, 1986.

TRD-8603266

Dan Miller
Deputy Commissioner
for Legal Services
General Land Office

Effective date: April 12, 1986
Expiration date: June 11, 1986
For further information, please call
(512) 463-5009.

★ ★ ★

Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. Also, in the case of substantive rules, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility

Commission of Texas

Chapter 23. Substantive Rules Rates

★ 16 TAC §23.21

(Editor's note: The Public Utility Commission of Texas proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)

The Public Utility Commission of Texas proposes an amendment to §23.21, concerning cost of service and establishing parameters for declaring a nuclear power plant operational.

Rhonda Colbert Ryan, secretary of the commission, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Ryan also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of guidelines for utilities, regulatory personnel, and others, by setting the parameters for declaring a nuclear power plant in service. The time when a plant is considered in service is important in determining the rates of the utility. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The amendment is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act.

This agency hereby certifies that the proposal has been reviewed by legal counsel

and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603223

Rhonda Colbert Ryan
Secretary
Public Utility Commission
of Texas

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 458-0100.

★ ★ ★

TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure

Examinations and Licensing

★ 22 TAC §51.53

The State Board of Barber Examiners proposes an amendment to §51.53, concerning out-of-state applicants. The proposed amendment clarifies eligibility for licensure by examination and the policies regarding issuance and expiration of temporary work permits, increases the examination fee to defray the additional administrative costs of processing out-of-state applicants, and equalizes the total fees for reciprocal licensing and licensing by examination.

Jo King McCrorey, executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for local government or small businesses as a result of enforcing or administering the section. The effect on state government will be an estimated increase in revenue of \$750 in 1986, and \$1,500 each year in 1987-1990.

Ms. McCrorey also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of clearly defined and equitable policies and fees. The anticipated economic cost to individuals who are required to comply with the pro-

posed section will be a \$15 increase in the examination fee in 1986-1990.

Comments on the proposal may be submitted to Jo King McCrorey, Executive Director, 1300 East Anderson Lane, C-275, Austin, Texas 78752 (512) 835-2040.

The amendment is proposed under Texas Civil Statutes, Articles 8401-8407, and 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§51.53. Out-of-State Applicant.

(a) Upon request, the board will mail an application to a barber who is licensed by another state or country which does not have a reciprocal licensing agreement with the Texas board, for an examination to qualify as a Class A registered barber in Texas. [The board will mail an application to an out-of-state applicant for an examination to qualify as a Class A registered barber or assistant barber in Texas.] The board will notify the applicant when to [he or she may] appear for a personal interview.

(b) (No change.)

(c) If the applicant meets all requirements of §13 and pays the initial examination fee, the board will issue a 30-day journeyman's work permit. The permit is renewable for an additional 30 days upon payment of another examination fee, if the applicant fails to appear for or does not pass the first examination. The board will notify the applicant when to appear for examination. [If the application is accepted, the board will issue the applicant a journeyman's permit and will notify him or her when to appear for the examination. An applicant shall have two opportunities to take the examination.]

(d) If the applicant fails to appear for or does not pass the examination on two occasions, the applicant may not continue to practice barbering in Texas on a journeyman's work permit. [Failure to appear at the examination will require an additional examination fee.]

(e) The examination for an out-of-state applicant shall consist of a practical demonstration of all the services rendered by a barber and a written examination. [If the applicant fails to appear or to make a passing grade on two occasions, he or she may not continue to practice by permit as a journeyman barber or assistant barber in Texas.]

(f) Effective August 5, 1986, the examination fee for out-of-state applicants shall be \$90. An additional \$90 examination fee will be required each time to apply for examination after failure to pass an examination or failure to appear for an examination. After passing the examination, the applicant shall pay a \$60 license fee for a two-year Class A barber certificate. [The applicant may renew the application at the discretion of the board.]

(g) The examination for an out-of-state applicant shall consist of a practical demonstration of all the services rendered by a barber, and a written and oral examination of the following subjects: scientific fundamentals of barbering; hygienic bacteriology; histology of the hair, skin, muscles, and nerves; structure of the head, face, and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin and hair; massaging and manipulating the muscles of the scalp, face, and neck; haircutting and shaving; and the requirements of the Texas Barber Law.

(h) Reciprocity of licensing, from May 6, 1980, forward, will no longer be granted by the State Board of Barber Examiners, and out-of-state applicants must comply with this section to obtain a Texas barber license.

(i) The examination fee for out-of-state applicants shall be \$75. If the out-of-state applicants fail the examination, another \$75 examination fee will be required to retake the examination, and each time he or she retakes the examination, the \$75 fee will be required. Upon passing the examination, the out-of-state applicant will pay a license fee of \$60 for a two-year license.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603271 Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 835-2040

★ ★ ★

★ 22 TAC §51.84

The State Board of Barber Examiners proposes new §51.84, concerning a reciprocal licensing policy with other states and countries, as authorized by the Texas Barber Law, Article 8407a, §10(c). The proposed section sets the effective date for implementation of licensing by reciprocity.

Jo King McCrorey, executive director, has determined that for the first five-year period the section will be in effect there will be an estimated increase in revenue of

\$750 in 1986, and \$1,500 each year in 1987-1990 for state government. There is no effect on local government or small businesses as a result of enforcing or administering the section.

Ms. McCrorey also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be recognition of previous training and licensing of out-of-state licensees for the purpose of granting a license to practice barbering in Texas without examination, and reduced time and travel expense for out-of-state licensees seeking licensure in Texas. The anticipated economic cost to individuals who are required to comply with the section as proposed will be a \$15 increase in the licensing fee in 1986-1990.

Comments on the proposal may be submitted to Jo King McCrorey, Executive Director, 1300 East Anderson Lane, C-275, Austin, Texas 78752, (512) 835-2040.

The new section is proposed under Texas Civil Statutes, Article 8401-8407, and 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§51.84. *Reciprocal Licensing Policy.* At its regular monthly meeting on November 5, 1985, the State Board of Barber Examiners adopted the policy of reciprocal licensing by issuing, without examination, a certificate or license to an applicant who has a current certificate or license issued by another state or country which has licensing standards substantially equivalent to the State of Texas, and with whom the Texas Board of Barber Examiners has entered a legal agreement for mutual reciprocal licensing, subject to proper application and payment of the prescribed fee by the applicant. The board will implement the policy of reciprocal licensing effective August 5, 1986, in accordance with the procedures hereinafter adopted.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986

TRD-8603272 Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 835-2040.

★ ★ ★



★ 22 TAC §51.85

The State Board of Barber Examiners proposes new §51.85, concerning reciprocal licensing of barbers from other states and countries. The proposed section defines the application requirements and the application and licensing fees.

Jo King McCrorey, executive director, has determined that for the first five-year period the section will be in effect there is an estimated increase in revenue of \$750 in 1986, and \$1,500 each year in 1987-1990 for state government. There is no effect on local government or small businesses as a result of enforcing or administering the section.

Ms. McCrorey also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be recognition of previous training and licensing of out-of-state barbers for the purpose of receiving a license in Texas without examination, reduced expenditures of time and travel, and clearly defined procedures, requirements, and fees for reciprocal licensing. The anticipated economic cost to individuals who are required to comply with the section as proposed will be a \$15 increase in the licensing fee in 1986-1990.

Comments on the proposal may be submitted to Jo King McCrorey, Executive Director, 1300 East Anderson Lane, C-275, Austin, Texas 78752, (512) 835-2040.

The new section is proposed under Texas Civil Statutes, Article 8401-8407, and 8407a, §28(a), which provide the State Board of Barber Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§51.85. *Reciprocal Licensing of Barbers.*

(a) Applicant may call or write the board office to obtain the prescribed application forms by mail. The completed application, all required documents, and separate money orders or cashier's checks for the \$90 application fee and the \$60 licensing fee for a two-year Class A registered barber certificate must be presented in person at the board office in Austin.

(b) The applicant's home licensing state or country must have a current reciprocal licensing agreement with the State of Texas.

(c) Applicant must be at least 16½ years of age.

(d) Applicant must submit proof of a 7th grade education.

(e) Applicant must present a current original barber license from the home licensing state or country.

(f) Applicant must submit a certified transcript of hours completed in an approved barber school and proof of graduation. If the applicant has an apprentice or assistant barber license, proof of 1,500 hours of barber school or working experience will be required from the licensing board or barber school.

(g) Texas requires 1,500 hours of training substantially equivalent to the Texas curriculum. If the applicant graduated in a state that required less than 1,500 hours, documented work experience may be substituted at the rate of 25 hours per month worked, up to a maximum of 500 hours, or the applicant must complete the balance of hours required in an approved Texas barber school.

(h) Applicant must submit a physician's certificate on the prescribed form, stating that the applicant is free from infectious or contagious diseases, tuberculosis, or communicable diseases, is free from the use of any kind of morphine, cocaine, or other habit-forming drug, and is not a habitual drunkard.

(i) Applicant must submit one current 2" by 2" process photograph (not Polaroid).

(j) Applicant must submit a letter from the licensing board in the home state, bearing its official seal of office, stating that the applicant's license is current and that no disciplinary action has been taken or is pending against the applicant.

(k) If the documents submitted do not all bear the same name, applicant must submit authentication of a change of name in the form of a photostatic copy of the applicable court order or marriage license.

(l) The application fee for reciprocal licensing is \$90. The licensing fee for a two-year Class A barber certificate is \$60. A separate money order or cashier's check is required for each fee, and both fees must be paid at the time of application. The application fee is nonrefundable. The licensing fee will be refunded if the application for reciprocal licensing is disapproved. The Class A barber certificate is renewable biannually upon proper application and payment of the \$60 renewal fee.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986

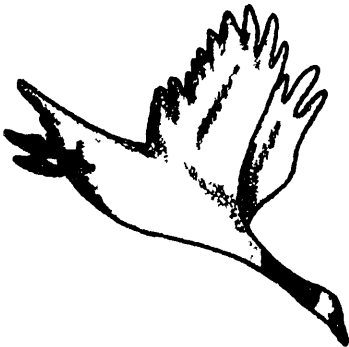
TRD-8603273

Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 835-2040.



TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Crippled Children's Services Program

★ 25 TAC §§37.83-37.91, 37.93, 37.96, 37.97

The Texas Department of Health proposes amendments to §§37.83-37.91, 37.93, 37.96, and 37.97, concerning the Crippled Children's Services Program. The amendments expand case finding activities, facilitate the eligibility determination process, provide for improved patient management, clarify the processing of claims with insurance, require patients/families who may be eligible for public or private insurance to apply or enroll, expand the procedure for denial/modification/suspension/termination of approval of providers/facilities, require all types of providers who are eligible to enroll in the Title XIX Medicaid Program to participate as Medicaid providers, and expand the diagnostic medical codes to include conditions closely related to coverable conditions or to include some conditions covered in the past.

Section 37.97 is also adopted on an emergency basis in this issue of the *Texas Register*.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections. The effect on state government will be an estimated additional cost of \$179,781 for the year 1986, \$1,429,748 for the year 1987, \$1,482,213 for the year 1988, \$1,536,603 for the year 1989, and \$1,592,988 for the year 1990. The effect on local government will possibly be a reduction of costs for local governments who provide for the medical care of their constituents. Some local governments provide medical care for conditions the Texas Department of Health will pay for under the proposed amendments. Since the reduction will be minimal and will depend on individual case conditions handled by local governmental entities, the reduction per year statewide is impossible to estimate.

Concerning the effect on small businesses, it is probable that the sections will pay some medical providers for services for children who have no other resource and for which the provider would not be reimbursed. Larger medical providers would be receiving the usual ratio of the extra program monies, which would be approximately 75% of the estimated fiscal note.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the program will be able to provide more services to more children. The sections also make it easier for people to make application and provide more continuity of services. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Janet S. Barkley-Booher, Chief, Crippled Children's Services Bureau, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Public comments will be received for 30 days after these proposed amendments have been published in the *Texas Register*. In addition, a public hearing will be held on Tuesday, May 6, 1986, at the Texas Department of Health, 1101 East Anderson Lane, second floor conference room, Austin, at 9 a.m.

The amendments are proposed under Texas Civil Statutes, Article 4410c, §8, which provide the Texas Board of Health with the authority to adopt rules concerning the Crippled Children's Program.

§37.83. *Eligibility for Patient Services.* In order for a person to be eligible for crippled children's services, the person has to meet the medical, financial, and related criteria in this section.

(1) Medical criteria.

(A) Basic requirements. To be medically eligible for the program, the patient must have a coverable condition and there must be an expectation of improvement or increase in functional independence. **The program must receive a physician's medical diagnosis on each condition to determine eligibility for services for each condition.** [Eligibility under the coverable condition does not mean that the patient is eligible for services under other coverable conditions.]

(B) Categories of coverable conditions.

(i) The coverable conditions are listed in subparagraph (C) of this paragraph. These conditions include the general conditions described in the Act and the specific conditions approved by the board. The list in subparagraph (C) of this paragraph serves only as a broad guideline to assist potential applicants. The approved specific medical diagnoses for each of these conditions are described in §37.97 of this title (relating to Medical Eligibility Criteria).

(ii) The program may make exceptions in those individual cases where the specific medical diagnostic code does not reflect the patient's medical condition, although it is strongly related to a coverable condition. Special consideration will need administrative approval.

(C) List of coverable conditions.

(1)-(xiii) (No change.)

(xiv) specific disorders of the eye [only strabismus and prosis (see subparagraph (E)(viii) of this paragraph)].

(D) (No change.)

(E) List of conditions not covered. Examples of conditions not covered include:

(i)-(iv) (No change.)

(v) most acute infectious diseases;

(vi) most digestive, metabolic, or endocrine disorders;

(vii) (No change.)

[(viii)] ophthalmologic conditions, except the conditions mentioned in subparagraph (C)(xiv) of this paragraph;]

(viii) [(ix)] conditions [cases] requiring only custodial care;

(ix) [(x)] conditions needing minor [cases requiring] cosmetic surgery or reconstruction procedures unrelated to coverable conditions;

(x) [(xi)] conditions [cases] requiring life support systems without potential for rehabilitation, including, but not limited to, ventilatory support;

(xi) [(xii)] emotional and psychological conditions;

(xii) [(xiii)] comatose conditions;

(xiii) [(xiv)] conditions requiring organ transplantation, with the exception of pilot projects [or experimental procedures];

(xiv) conditions requiring procedures considered experimental.

(2)-(3) (No change.)

(4) Health Insurance.

(A) All health insurance policies held by the patient [applicant] and/or family must be listed on the application. If insurance eligibility was effective prior to program eligibility, premium payments on individual or group health insurance must continue. If insurance cannot be maintained:

(i) [(A)] verification of uninsurability from the carrier or the employer must be provided to the program upon request; or

(ii) [(B)] verification of loss of employment and/or inability to make premium payments must be provided upon request.

(B) If the family does not have health insurance at the time of application but is eligible for coverage, either group or public, the family must apply or enroll for coverage as soon as possible, unless the patient is uninsurable or unless the family is financially unable to make premium payments. The program will assist families in determining possible eligibility for insurance and will provide program assistance during application, non-enrollment, and/or pre-existing condition ineligibility periods.

(5) (No change.)

(6) Residency.

(A) (No change.)

(B) If verification of residency is [will be] requested, it may be submitted in the form of a valid driver's license, voter registration, motor vehicle registration, rent or utility receipts for two months prior to the date of application, school records, or

other proof of residency if determined valid by the central office.

(7) Determination of eligibility.

(A) The final determination of eligibility is made by the program, using the information provided in the application. The program may request verification of any information given to establish eligibility, and will withhold payment of services if verification is not submitted within the time allowed [but at a minimum will require that documentation of income and residency be submitted with the application].

(B) If the family income is above the allowed amount, the program will use the projected cost of treatment as determined by the program (by medical condition) as an additional factor for eligibility purposes. If the difference between the family's annual income and the allowable income is less than the cost of treatment for a year, the patient will be considered eligible.

(C) [(B)] Eligibility criteria are:

(i)-(v) (No change.)

(D) [(C)] The patient's [person's] case is considered to be active when all aspects of eligibility have been met and continues for a period not to exceed one year's duration, as long as each of the eligibility criteria in subparagraph (C) [(B)] of this paragraph are met. The program will respond in writing within 15 working days after the application is received regarding eligibility status.

(E) [(D)] Medical eligibility covers only those conditions that are listed on the medical section [Part B] of the application that are coverable and approved by the program. Coverage for other [Program coverage of additional] conditions will require the submission of additional medical information to the program [another Part B] for further medical eligibility determination. Another application or a medical summary or report may be submitted for consideration.

(F) [(E)] At the time eligibility is established, an eligibility date will be determined and entered into the program record. The eligibility date assigned will be:

(i) the date the application is received if all requirements for eligibility were met; or

(ii) (No change.)

(8) Verification of information.

(A) The Act provides that the program must establish a system to verify the information given on the application. In order for the application process to be as accessible to the public as possible, documentation of residency, income, and assets will not be required to be attached to the application form. However, the program may request documentation on applications on a random sample basis and on those applications where incomplete, incorrect, or insufficient information is provided.

(B) The program will notify the patient/family in writing that specific documentation is required within a certain time period. It is the patient's/family's responsi-

bility to provide this information. No payment will be made if the information is not submitted within the time allotted. If conditional authorization has been given, the provider will be notified of the cancellation of the conditional authorization.

(C) Those persons eligible for Medicaid, food stamps, or other programs for the indigent which meet the financial and residency requirements of the program will be considered eligible from a financial and residential standpoint. The patient/family must notify the program if no longer eligible for such programs.

(9) [(8)] Determination of continuing eligibility. Eligibility is established for a maximum of one year. Financial [and medical] eligibility must be re-established on at least an annual basis. Medical eligibility will be presumed as long as the patient needs treatment for the condition, as established by the treatment plan and/or updated medical information.

(A) Medical. On-going coverage of long term conditions may be provided if written plans of care are submitted which are time and treatment specific and are updated as required by the program [at least once per year]. The program may request medical reports [at] any time [the] information submitted to the program is insufficient to determine continued eligibility or the need for specific services is unclear. Episodic conditions may [will] require short term treatment plans on a more frequent basis. If the medical condition is improved to the degree the person no longer qualifies for the program, the case is considered closed. If the condition no longer meets the criteria for expectation of improvement/increase in functional independence, the patient [person] will be considered ineligible and the case will be closed. Upon closure of a case, the family and provider(s) will be notified. Administrative review is available (see §37.96(a) of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination)).

(B) Family circumstances.

(i) To maintain eligibility for program benefits, the person must:

(I)-(IV) (No change.)

(V) apply for insurance coverage, if requested by the program; and

(VI) [(V)] apprise the program within 30 days of changes in the following:

(-a)-(-e) (No change.)

(ii) The program may request current information when there is indication of a change of family circumstances but will require updated information on an annual basis [no less often than once a year].

(iii) Verification of income and residency may [will] be required.

(iv) (No change.)

(v) If the family did not have health insurance at the time of application but may be eligible for public or group coverage, the program may require the family to apply or enroll for coverage for the patient.

The program will assist families in determining possible eligibility if needed.

§37.84. Services Provided to Patients. The program provides no direct services, but utilizes a reimbursement process through authorization of services rendered by approved and other participating providers. The patient should receive services as close to the home community as possible, except in those situations where program contracts or policies require treatment at specific facilities or specialty centers.

(1) Types of assistance.

(A) Initial examination[(Early identification)].

(i) **Outreach services.** The program may arrange outreach services/clinics to assist in case finding. Services should be provided by pediatricians or other specialists as appropriate, with support staff of nurses, social workers, nutritionists, therapists, or other required disciplines, and may be arranged on a one-time or scheduled basis at locations to be determined by the program as need is identified.

(ii) Initial examinations.

(I)(i) This service is available to those patients [persons] whose financial, residence, and age eligibility has been established and who are suspect of having a condition coverable by the program. Any licensed physician in the state may provide the examination, but authorization prior to the exam is required if program payment is to be made. Payment for the examination, inclusive of any office tests or procedures, will be according to program fee schedules. The medical section [Part B] of the application or a [must be submitted as the] medical report must be submitted with [and attached to] the voucher for payment. Only a program approved physician can be reimbursed for further diagnosis, evaluation, and rehabilitation services.

(II)(ii) The examination is available to persons who do not have a family physician nor access to any medical resource in the local community. The examination is made to establish a medical diagnosis so that the applicant can be referred to the appropriate specialty. If the applicant's condition is definable to the extent that a referral can be made directly to a specialist, an approved physician must be used (see subparagraph (B) of this paragraph relating to Diagnosis and Evaluation).

(B) Diagnosis and evaluation. Only program approved physicians and dentists may be reimbursed for specialty diagnosis and evaluation. If the diagnostic work-up is to include any procedures that are not routine, specific diagnostic tests and procedures must be outlined in the request for services in order for program reimbursement to be made. The [A] medical part of the application [report] must be submitted to the central office on Part B of the application form] and must contain diagnosis(es), prognosis, and a plan of treatment, including

procedures, equipment, medications, follow-up visits/care by the provider, and any services required in the home community. Medical reports or summaries may be submitted to update medical information or the treatment plan at any time.

(C) (No change.)

(D) Patient management.

(i) **Medical management.** Certain patients, by virtue of the complexity of their medical condition, may require the services of a medical manager, usually the local pediatrician or other designated physician, to supervise the overall medical care of the patient. The program may require periodic reports from the medical manager.

(ii) **Case management.** Some families may require assistance to obtain adequate and appropriate support services related to the patient's medical condition, such as referral, coordination, and follow-up. Case management services may be made available through public health regional offices, if not available from other resources.

(2) List of services. The following list provides a brief description of the services the program may provide. Authorization must be requested for all services. Services may be limited as to frequency, duration, and cost for budgetary and administrative reasons.

(A)-(B) (No change.)

(C) **Medical management.** The program may provide services by the local pediatrician or other designated physician responsible for the overall medical management of the patient's case.

(D)(C) **Dental evaluation and treatment.** Dental care is limited to correction of conditions related to cleft palate and other severe craniofacial anomalies, and to treatment which is essential to prevent bacterial endocarditis before and after cardiac surgery.

(E)(D) **Treatment in approved facilities.** Hospital care must be provided in facilities approved for program participation, except in emergency situations. The length of stay is limited according to diagnosis and condition of the patient.

(F)(E) **Braces and prosthetic devices.** These devices must be related to a condition covered by the program and prescribed by an approved physician or dentist whose specialty is related to the condition for which the device is requested.

(G)(F) **Medications.** Medications must be prescribed by an approved provider for treatment of a condition covered by the program. Payment is made only after delivery of the medications. The provider must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher. Pharmacies must be Medicaid providers and must verify to the program that three prescriptions have been used for the current month.

(H)(G) **Durable medical equipment.** Equipment must be related to a condition covered by the program and must be

prescribed by an approved provider whose specialty is related to the equipment requested. Some equipment may be supplied on a contract basis and therefore ordered from a specific supplier. The provider must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher.

(I)(H) **Medical supplies.** Supplies must be necessary in the treatment of a program covered condition and prescribed by an approved physician or dentist. The provider must submit proof of receipt by the patient and a copy of the physician's prescription. Articles of routine daily living (for example, diapers) are not provided.

(J)(I) **Speech-language pathology.** Services are restricted to treatment of cleft palate and craniofacial anomalies and must be provided by a speech-language pathologist licensed by the state and prescribed by a physician approved for program participation. Initial evaluations, treatment plans, and periodic progress reports covering no more than six months must be submitted to substantiate the need for services.

(K)(J) **Occupational and physical therapy.** Services must be provided by a therapist licensed by the state and prescribed by a physician approved for program participation. Occupational and physical therapy services must be provided by comprehensive rehabilitation centers, hospitals, physicians' offices, and private therapists (in certain circumstances). Initial evaluations, treatment plans, and periodic progress reports covering no more than six months must be submitted to substantiate the need for services.

(L)(K) **Transportation.** The program may provide transportation for the patient and, if needed, a responsible adult, to the nearest medically appropriate facility. The lowest cost appropriate commercial carrier should be used. The program cannot assist if the patient is eligible for transportation through Medicaid.

(M)(L) **Meals and lodging.** The program may provide meals and lodging. The purpose is to enable a parent to obtain inpatient or outpatient care for a child at a center located away from their home or to reduce the length of stay of hospitalization. No meals or lodging are available if the visit is not overnight or if the patient's home town is within a 50 mile radius of the treatment center. The reason for the inpatient or outpatient visit must be directly related to a condition covered by the program.

(N) **Case management.** The program may provide this service to those families needing assistance with obtaining or coordinating services related to the patient's medical condition.

(O)(M) **Transportation [transporting] of deceased patient.** The following services may be provided:

(i)-(iv) (No change.)

(3) (No change.)

(4) **Limitations.** The program may limit or restrict services to remain within

available funding and to provide effective and efficient administration. If funding short-ages occur, priority will be given to those persons already eligible and receiving services over those making initial application. The eligibility date will be used to make this determination. If cutbacks in services are required and notification is not published, patients and providers directly affected will be given a minimum of 30 days' notice. Services may be limited by the following means (not listed by priority):

(A)-(G) (No change.)

(5) (No change.)

§37.85. Application Process.

(a) Availability of application. Applications are available to anyone seeking assistance from the program. Application forms may be obtained from any local or regional health department or the program. Many hospitals and physicians have application forms available. The completed application form is sent to the program for eligibility determination. The application requires [is in two parts: Part A provides eligibility information regarding family circumstances;] and [Part B provides] medical [eligibility] information. To be considered by the program, the application must be made on department forms [labeled Part A and Part B] shown to be effective after September 1, 1985. [Forms utilized prior to September 1985 may be accepted by the program through January 1, 1986, provided information requested on Part A and Part B is received by the program.]

(1) (No change.)

(2) The patient [person] is considered to be an applicant from the time of notification [the central office is notified] (in writing or by telephone) that the person wishes to make application until the determination of eligibility is made by the program [central office]. The program will respond in writing within 15 working days after [Parts A and B of] the application is [are] received [in the central office] regarding eligibility status. Applications will be considered:

(A) (No change.)

(B) incomplete if sufficient family information is not provided or if an outdated form is submitted [(Part A) or if a form effective before September 1, 1985, is used after January 1, 1986];

(C) pending if medical information is not [yet] available [(Part B)]; or

(D) (No change.)

(b) [Part A -] Family circumstances.

(1) The patient [applicant] or parent/guardian/conservator if patient [applicant] is a minor, must submit a properly completed and signed application form [to the central office]. Written [Any] documentation of circumstances may be requested [on the application must be attached to the form or it will be returned as incomplete].

(2) Information required [on Part A] includes, but is not limited to:

(A) data about the patient [applicant]—name, [present location,] date of birth, place of birth, social security number, if applicable, and whether the patient [applicant] is currently eligible for Medicaid;

(B) data about the applicant's legally responsible person(s)—name, relationship, [present address and permanent] address, and telephone number [, whether a resident of the state (requires verification)];

(C) health insurance policies providing coverage for the applicant— name of the policy holder (employer); name of the insured and social security number; name, address, and telephone number of the insurance company; plan, group, or policy number, and certificate number [insurer, policy number, group number, certificate number, and amount of monthly premium];

(D) income of legally responsible person(s) [—requires verification];

(E)-(G) (No change.)

(H) parent's statement of applicant's medical or health problem;

(I) name of family physician or medical facility used, if applicable;]

(H)(J) agreement to furnish [the program] a copy of the police report if patient [applicant] was injured in an auto accident (the police report must be received by the program [in the central office] before any payment will be made).

(K) whether applicant's legally responsible adult can provide transportation out of town for medical treatment, if necessary;

(L) name, address, and phone number of person assisting the applicant's family in completing the application.]

(3) An application [, Part A,] is considered incomplete for any of the following reasons:

(A) (No change.)

(B) lack of supporting documents, if [as] requested [on the form] (i.e., income, residency, etc.);

(C) (No change.)

(c) Medical [Part B—medical] information.

(1) In order to determine medical eligibility, [Part B of] the medical section of the application form must be completed and sent to the program. The physician must provide at least the following:

[(A) applicant's name, current address, date of birth, and crippled children's case number if available;]

(A)(B) diagnosis(es), if possible by name and [diagnosis] by International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9 Codes) [and name(s)];

(B)(C) services needed, including medical procedures (by name and procedural code number, if possible) [, equipment, and medications];

(C)(D) names and addresses of facilities to be utilized;

(D)(E) medical prognosis;

(E)(F) functional status, current and future;

(F)(G) treatment plan for a period not to exceed 12 months, including follow-up visits, occupational therapy and physical therapy services, drugs, equipment, and any services required in the home community.

(2) An initial examination is available to persons who do not have a family physician nor access to any medical resource in the local community. The examination is made to insure referral of the patient [applicant] to the appropriate specialty. Family information on [Part A of] the application [process] must be completed and the patient [person] determined eligible before authorization for an initial examination can be made. The medical section of the application or a medical report or summary [Part B] must be submitted with [as the medical report and attached to] the voucher for payment.

(d) (No change.)

(e) Verification. The program may request verification of any information given to establish eligibility. This may include more information [documentation] than required on the application if there is incomplete, inadequate, or conflicting information provided. It is the patient's/family's responsibility to provide the program with the information/documentation requested. [Verification of income, assets, and residency is required as a minimum. Any application that is not accompanied by appropriate documentation will be returned to the sender as an incomplete application.] The following information may be [is] required:

(1) Residency:

(A) Verification of Texas residency [must be attached to the application and] may be in the form of a copy of one of the following:

(i)-(vi) (No change.)

(B) (No change.)

(2) (No change.)

(3) Income/assets:

(A) [All] Income of the patient [applicant] or legally responsible person(s) may [must] be verified in at least one of the following ways:

(i)-(vi) (No change.)

(B) (No change.)

(C) If the responsible person(s) is unemployed, a statement of termination from the employer or evidence of Texas unemployment insurance enrollment may be [is] required.

(D) If the patient [applicant] can be confirmed as a recipient of Medicaid [eligible], Food Stamps, or other programs for the indigent which meet the financial and residency requirements of the program, no verification [of] regarding income or residency will be [is] required.

(E) (No change.)

(f) Notification of acceptance. Notification of eligibility status will be mailed within 15 working days after [Part A and Part B of] the application has [have] been

received by the program. Any limitations or restrictions of services will be explained, whether related to financial status, the treatment plan, or the budgetary limitations of the program. Any questions regarding coverage should be addressed to the program and not the provider. Incomplete applications will be returned to the patient [applicant].

(g) (No change.)

(h) Reapplication. Any person has the right to reapply for program coverage at any time or when there is change of situation or condition. [If there has been no service authorized by the program since September 1, 1984, reapplication will be required for continued program coverage.] **Updated family circumstances** [An updated Part A and Part B] must be reviewed [received] by the program on each patient at least once every 12 months so that eligibility can be redetermined. Medical eligibility will be presumed as long as the patient needs treatment for the covered condition, as established by the treatment plan and/or medical reports.

§37.86. Authorization of Services.

(a) (No change.)

(b) Third party reimbursement. Under the provisions of the law, any private or public medical insurance or other benefits available to the patient must be utilized prior to the use of program funds.

(1) Public or private health insurance.

(A) Any health insurance policies that provide coverage to the [applicant/] patient must be utilized before the program can be of assistance. Providers must request authorization of service but must bill private or public insurance to determine the amount of coverage available prior to submitting any claim to the program for payment. [Third party explanation of benefits (EOB's) must accompany any claim sent to the program for payment. If a claim is rejected by a third party, the provider may bill the program if the service was authorized, and if the rejection letter or EOB is received by the program within 30 days of the date of the rejection, but no later than 180 days from the date of service. Claims rejected by Medicaid or any private insurance on the basis of late filing will not be considered for payment by the program.]

(B)-(C) (No change.)

(2) (No change.)

(c) (No change.)

(d) Limitations. The program may limit or restrict services to remain within available funding and to provide effective and efficient administration. The program may establish priorities by type of service for budgetary reasons.

(1) In-patient hospital care. Payment of in-patient hospital care is limited to 60 days during a 12-month period, based on the patient's anniversary date, and specifically to the number of days allowable according to condition and procedure. Any extension of the specific allowable will require a conditional authorization [from the central of-

fic] and will be based on medical justification. Friday and weekend admissions are not allowed unless an emergency exists. In emergency situations, unapproved providers may request a maximum of two days' authorization, or coverage until the patient is stabilized, whichever is less.

(2)-(4) (No change.)

(e)-(g) (No change.)

§37.87. Denial/Modification/Suspension/Termination of Services.

(a) Reasons.

[(1)] Any person requesting or receiving benefits from the program may be notified that such benefits are [may be] denied, modified, suspended, or terminated if:

(1)[(A)] application information is erroneous or falsified;

(2) the patient/family does not meet financial eligibility requirements;

(3)[(B)] the person is no longer a resident of Texas;

(4)[(C)] pertinent information is not provided when requested;

(5)[(D)] the medical condition is no longer considered rehabilitative;

(6)[(E)] the medical condition is improved to the degree that the person no longer qualifies for services;

(7)[(F)] obligated reimbursement to the program is not provided. (Any person or persons who have a legal obligation to support the patient and have received third party or liability payments must reimburse the department by lump sum payment or, at the department's discretion, in monthly installments);

(8)[(G)] the patient attains the age of 21, except for patients with cystic fibrosis; or

(9)[(H)] program funds are reduced or curtailed.

[(2) Persons eligible prior to September 1, 1985, and who have received program benefits after April 1, 1985, will remain eligible for program benefits for a one-time only grace period ending March 31, 1986, or six months after the program notifies the responsible person, whichever is earlier. After March 31, 1986, all patients must qualify within the criteria stated in these sections to remain eligible for program coverage. Patients eligible prior to September 1, 1985, and who have not received program benefits after April 1, 1985, must reapply for program benefits.]

(b) (No change.)

§37.88. Rights and Responsibilities of Parents/Guardian/Conservator or the Adult Patient.

(a) Rights. The parent/guardian/conservator or the adult patient shall have the right:

(1) (No change.)

(2) to choose [of free choice of] providers within program limitations of approved providers;

(3) (No change.)

(4) to be notified [of notification] of modification, suspension, or termination of service;

(5) (No change.)

(6) to appeal program decisions within 20 [10 working] days of the date of written notification of program decisions.

(b) (No change.)

§37.89. Providers and Facilities.

(a)-(c) (No change.)

(d) The law specifies that payment for program services are secondary to other public and private health insurance programs. Providers must agree to utilize all third party resources available to the patient, including Medicaid or Medicare [, prior to requesting payment].

(e) (No change.)

(f) All types of providers who are eligible to enroll in the Title XIX Medicaid Program must participate as Medicaid providers in order for the patient to utilize primary insurance coverage. The program will not pay a provider for any service that could have been reimbursed by Medicaid.

§37.90. Approved Providers and Facilities.

All approved providers must agree to abide by program rules and regulations, to accept program fees as payment in full, and not to discriminate against patients on the basis of insurance or Medicaid status. The following groups of providers must be processed through an application process to determine their desire to participate within the program's rules as approved by the board and to determine their qualifications in relation to the criteria for participation as decided by the board.

(1)-(6) (No change.)

(7) Denial/modification/suspension/termination of provider or facility approval.

(A) The program may deny, modify, suspend, or terminate the approval of providers or facilities for due cause. Any provider or facility not adhering to the agreement signed at the time of application or renewal for program participation, or submitting false or fraudulent claims, or failing to provide and maintain quality services or medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions.

(i) The program will notify the provider or facility in writing of the proposed action to be taken, the date of the action, and the reasons for the action.

(ii) The provider has the right of appeal as described in §37.96(a) of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(iii) The program must give the provider at least 30 days' written notice prior to final action.

(B) (No change.)

§37.91. Other Participating Providers and Facilities. The program may use other types of providers that are not required to apply for approval, and may use non-approved

providers for emergency or follow-up care, or in areas of the state where there are no approved providers available. Like approved providers, unapproved providers must adhere to program rules and procedures [the following payment procedure] to be assured of program payment.

(1) Examples. Examples of other participating providers and facilities are:

(A) non-approved physicians and dentists used for emergencies or follow-up in the local community;

(B)-(H) (No change.)

(2)-(4) (No change.)

§37.93. *Payment of Services.* No payment will be made for services not authorized by the program except as indicated in paragraph (8) of this section. Payment for any service authorized by the program may be made only after the delivery of the service. If a service has been authorized by the program for payment, the family must not be billed for the service or be required to make a pre-admission or pre-treatment payment or deposit. Providers and facilities must agree to accept established fees as payment in full, although such fees may be below usual and customary charges.

(1) Claims payment, denial, rejection. All payments made in behalf of a patient will be for claims received by the program within 90 days of the date of service, or the latter date shown on the preprinted program voucher (90-day filing deadline), and/or within the submission deadlines listed in subparagraphs (B)-(C) of this paragraph, or as stated in paragraph (6) of this section. Claims will either be paid, denied, or rejected, generally within 60 days of receipt by the program.

(A) (No change.)

(B) Denied claims are claims which are incomplete, submitted on the wrong form, or contain inaccurate information when originally submitted.

(i) (No change.)

(ii) If the claim is incomplete because it lacks other third party explanation of benefits (EOB), payment may be made if the original claim and completed EOB's are received by the program as outlined in paragraph (3) of this section [within 30 days from the date of the third party EOB, but no later than 180 days from the date of service].

(iii)-(iv) (No change.)

(C)-(D) (No change.)

(2) (No change.)

(3) Claims with insurance coverage.

Any health insurance policies that provide coverage to the [applicant/] patient must be utilized before the program can be of assistance. Providers must bill private or public insurance to determine the amount of coverage available prior to submitting any claim to the program for payment. [The provider may bill the program if the service was authorized, and if the explanation of benefits (EOB) or the rejection letter is attached to

the voucher and is received by the program within 30 days of the date of the rejection, but no later than 180 days after the date of service.]

(A) Insurance denial. If a claim is rejected by a third party, the provider may bill the program if the letter of denial is submitted with the voucher. If the denial letter is not available, the provider must include on the voucher the name and telephone number of the insurance company, the policy number, and name of the insured for each policy covering the patient.

(B) Explanation of benefits (EOB's). Third party EOB's must accompany any claim sent to the program for payment if available. If unavailable, the provider must include on the voucher the name and telephone number of the insurance company, the amount paid, the policy number, and name of the insured for each policy covering the patient.

(C) Filing deadlines. Vouchers must be received within 180 days of the date of service. However, if the provider can prove the claim was submitted to the insurance company within 45 days of the date of service, but did not receive an EOB or denial until after the program's 180-day filing deadline, the provider may submit the voucher with the EOB or denial for payment consideration if received by the program within 30 days of the date the EOB or denial was processed by the insurance company. Under no circumstance will a claim be considered if submitted after 210 days of the date of service, or if program funds are not available.

(D) Late filing. Claims rejected by Medicaid or any private insurance on the basis of late filing will not be considered for payment.

(4) Program fee schedules. The program has adopted fee schedules which apply to most authorized services. Fee schedules are revised as appropriate in relation to available funding and customary charges. The program may adopt other fee schedules through contract or written agreement for budgetary or administrative reasons. If the patient has Medicare coverage, the program will use Medicare's allowable and pay any deductible or co-payment for the patient as long as the deductible and/or co-payment does not exceed the program's fee schedule in use at the time of service.

(5)-(8) (No change.)

§37.96. *Appeals, Confidentiality, Gifts, and Nondiscrimination.*

(a) Right of appeal. Any person aggrieved by a program decision to deny, modify, suspend, or terminate benefits or participation rights may appeal the decision in the following manner.

(1) Administrative review.

(A) Within 20 [10 working] days of the date of written [after receiving] notice of denial, modification, suspension, or termination of benefits, a person aggrieved and wanting an administrative review shall re-

spond to or question the program's decision and notify the program in writing [by certified mail] of his/her request for an administrative review of the program's decision. Additional information bearing on the decision may be submitted at this time. Failure to request an administrative review within the 20 [10]-day period is deemed to be a waiver of the administrative review.

(B) (No change.)

(C) Within 5 [10] days of the date of [after receiving] written notice of the decision of the administrative review team, a person aggrieved by the program's administrative review may request a due process hearing from the department in accordance with the provisions of paragraph (2) of this subsection. A written request for a hearing shall be sent to the program [by certified mail]. Failure to request the hearing within the five [10]-day period is deemed to be a waiver of the due process hearing.

(2) (No change.)

(b)-(d) (No change.)

§37.97. *Medical Eligibility Criteria.* The department adopts by reference the medical eligibility criteria published by the department, as amended in June 1986. A copy of the medical eligibility criteria is indexed and filed in the Bureau of Crippled Children's Services, Texas Department of Health, 1101 East Anderson Lane, Austin, Texas, and is available for public inspection during regular working hours.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-9603253

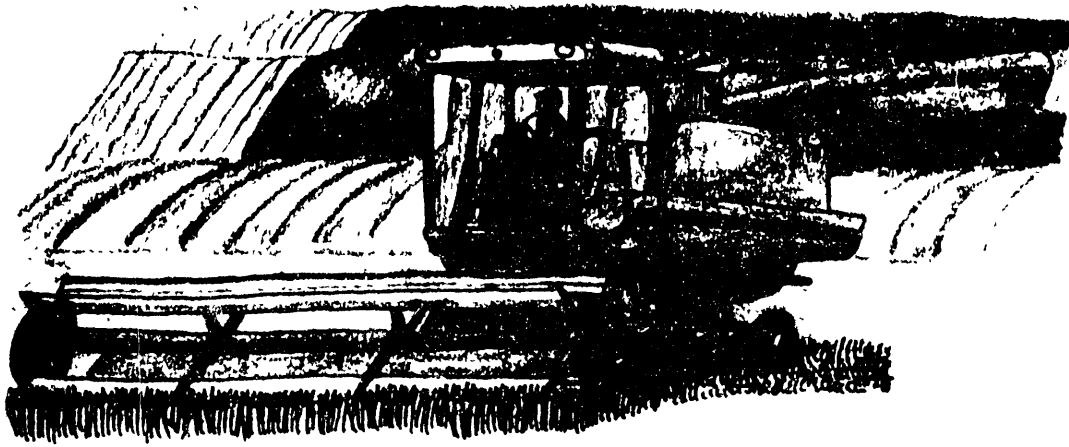
Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Proposed date of adoption:

May 31, 1986

For further information, please call
(512) 465-2680.





TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 311. Watershed Protection

Subchapter A. Lakes Travis and Austin Water Quality

★31 TAC §§311.1-311.5

The Texas Water Commission proposes new §§311.1-311.5, concerning water quality management in the Lakes Austin and Travis watersheds.

Although this subchapter is proposed as new, the regulations have been in effect in Chapter 359 under the jurisdiction of the Texas Water Development Board. Senate Bill 249, passed by the 69th Legislature, 1985, and effective September 1, 1985, transferred jurisdiction under the Texas Water Code, §26.011, to the Texas Water Commission.

The proposed sections re-enact the Water Quality Management rules for Lakes Travis and Austin.

Section 311.1 defines the water quality areas and watersheds.

Section 311.2 prohibits the discharge of pollutants into the water quality areas.

Section 311.3 sets out two options for secondary treatment of any proposed sewage treatment facility in the water quality area. A treatment facility would have to provide secondary treatment in the form of discharge into on-channel ponds or storage ponds for land disposal.

Section 311.4 states that currently permitted facilities may continue to operate under their existing permits and may ap-

ply for renewal of the permits. Upon expiration of the permit, the facilities must comply with §311.3. Permit amendments which result in additional treatment capacity will require treatment in accordance with §311.3. Facilities which are non-compliant with their permits will be subject to amendment to impose the treatment limitations in §311.3.

Section 311.5 requires new permit applicants to provide for disposal without discharge under §311.3 or a demonstration that any alternative treatment will consistently protect and maintain the existing water quality in Lakes Austin and Travis.

The purpose of these sections is to protect the water quality of the two lakes.

Bobbie Barker, chief, Fiscal Services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Barker also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to continue to maintain the existing high quality water in Lakes Travis and Austin. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Pat Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711.

The new sections are proposed under the Texas Water Code, §5.013 and §26.011 which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.1. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

Lake Austin water quality area—Those portions of the Lake Austin watershed within 10 stream miles of the pool level of Lake Austin (492.8 feet, mean sea level).

Lake Austin watershed—Lake Austin and its tributaries located between Tom Miller Dam and Mansfield Dam.

Lake Travis water quality area—Those portions of the Lake Travis watershed within 10 stream miles of the pool elevation of Lake Travis (681 feet, mean sea level).

Lake Travis watershed—Lake Travis and its tributaries located between Mansfield Dam and Max Starcke Dam, but only that part of the Pedernales River and its tributaries within 15 stream miles of the pool elevation of Lake Travis.

§311.2. No Discharge of Pollutants. There shall be no discharge of pollutants into the Lake Austin water quality area or the Lake Travis water quality area, except as provided in these sections.

§311.3. Wastewater Disposal. Any proposed sewage treatment facility in the Lake Austin or Lake Travis water quality area will be required to provide secondary treatment in accordance with one of the following options:

(1) the treatment facility will provide treatment as specified in Effluent Sets 2 and A in §309.4 of this title (relating to Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into on-channel ponds. Such ponds will be designed, constructed, and operated to meet standards established on a case-by-case basis that will assure that any overflows of treated effluent occur only when the volume of effluent to stormwater in the pond is less than or equal to 1:10. For the purposes of this paragraph and calculation, effluent does not include any amounts of stormwater runoff, but only the amount of wastewater

discharge from the plant. Standards will include, but are not limited to, a minimum pond size requirement based on hydrological studies of the drainage area of the pond and allowable irrigation rates as determined in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent); or

(2) the treatment facility will provide secondary treatment as specified in §§309.1-309.4 of this title (relating to Introduction and Purpose; Rationale for Effluent Sets; Application of Effluent Sets, and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal practices will be designed, constructed, and operated in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent).

§311.4. Existing Facilities in Water Quality Areas.

(a) Any currently permitted treatment facility in the Lake Austin or Lake Travis water quality areas may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit unless the facility becomes substantially noncompliant or an expansion of the treatment facility is included in the application for renewal.

(b) Any modification of a facility described in subsections (a) or (b) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.3 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.

(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.3 of this title (relating to Wastewater Disposal).

§311.5. *Lake Austin and Lake Travis Watershed Management.* Any proposed new or expanded treatment facility in the Lake Austin or Lake Travis watersheds but outside the Lake Austin and Lake Travis water quality areas may be permitted only if it provides disposal without discharge in accordance with §311.3 of this title (relating to Wastewater Disposal) or if the applicant establishes that any alternative proposed wastewater treatment and disposal will consistently protect and maintain the existing water quality of Lake Austin and Lake Travis.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603260

James K. Rourke, Jr.
General Counsel
Texas Water Development
Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 463-8069.

★ ★ ★

Subchapter B. Lakes Inks and Buchanan Water Quality

★31 TAC §§311.11-311.15

The Texas Water Commission proposes new §§311.11-311.15, concerning water quality management in the Lakes Inks and Buchanan watersheds.

These sections are promulgated in response to a petition for rulemaking. A great deal of concern over the water quality of Lakes Inks and Buchanan and the potential impact on Lakes Austin and Travis was expressed to the commission. The lakes are valuable to the tourist industry and for recreational use by area residents. The commission, therefore, decided to propose regulations to protect the water quality of the lakes.

The proposed regulations are based on the Water Quality Management regulations for Lakes Travis and Austin.

Section 311.11 defines the water quality areas and watersheds.

Section 311.12 prohibits the discharge of pollutants into the water quality areas.

Section 311.13 sets out two options for secondary treatment of any proposed sewage treatment facility in the water quality area. A treatment facility would have to provide secondary treatment in the form of discharge into on-channel ponds or storage ponds for land disposal.

Section 311.14 states that currently permitted facilities may continue to operate under their existing permits and may apply for renewal of the permits. Upon expiration of the permit, the facilities must comply with §311.13. Permit amendments which result in additional treatment capacity will require treatment in accordance with §311.13. Facilities which are noncompliant with their permits will be subject to amendment to impose the treatment limitations in §311.13.

Section 311.15 requires new permit applicants to provide for disposal without discharge under §311.13 or a demonstration that any alternative treatment will consistently protect and maintain the existing water quality in Inks Lake and Lake Buchanan.

The purpose of these sections is to protect the water quality of the two lakes.

Boobie Barker, chief, Fiscal Services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. The effect on small businesses will be approximately \$580,000 for irrigation of effluents from Southwestern Graphite Company (\$550,000) and Silver Creek Lodge (\$30,000).

Ms. Barker also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to continue to maintain the existing high quality water in Lakes Inks and Buchanan. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Pat Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711.

The new sections are proposed pursuant under the Texas Water Code, §5.013 and §26.011, which provide the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.11. *Definitions.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Inks Lake water quality area—Those portions of the Inks Lake watershed within 10 stream miles of the normal operating pool elevation of Inks Lake (888 feet, mean sea level).

Inks Lake watershed—Inks Lake and its tributaries located between Roy Inks Dam and Buchanan Dam.

Lake Buchanan water quality area—Those portions of the Lake Buchanan Watershed within 10 stream miles of the normal operating pool elevation of Lake Buchanan (1020 feet, mean sea level).

Lake Buchanan watershed—Lake Buchanan and its tributaries located between Buchanan Dam and the confluence of the Colorado River and Deep Creek near the convergence of the Brown, McCulloch, and San Saba County lines.

§311.12. *No Discharge of Pollutants.* There shall be no discharge of pollutants into the Inks Lake or Lake Buchanan water quality areas, except as provided in these sections.

§311.13. *Wastewater Disposal.* Any proposed sewage treatment facility in the Inks Lake or Lake Buchanan water quality areas will be required to provide secondary treatment in accordance with one of the following options:

(1) the treatment facility will provide treatment as specified in Effluent Sets 2 and A in §309.4 of this title (relating to

Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into on-channel ponds. Such ponds will be designed, constructed, and operated to meet standards established on a case-by-case basis that will assure that any overflows of treated effluent occur only when the volume of effluent to stormwater in the pond is less than or equal to 1:10. For the purposes of this paragraph and calculation, effluent does not include any amounts of stormwater runoff, but only the amount of wastewater discharge from the plant. Standards will include, but are not limited to, a minimum pond size requirement based on hydrological studies of the drainage area of the pond and allowable irrigation rates as determined in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent-Irrigation); or

(2) the treatment facility will provide secondary treatment as specified in §§309.1-309.4 of this title (relating to Introduction and Purpose; Rationale for Effluent Sets; Application of Effluent Sets, and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal practices will be designed, constructed and operated in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent-Irrigation).

§311.14. Existing Facilities in Water Quality Areas.

(a) Any currently permitted treatment facility in the Inks Lake or Lake Buchanan water quality areas may continue operation in accordance with the terms and conditions of the existing permit for the facility until the permit expires. Upon expiration of the permit, such facilities shall comply with §311.13 of this title (relating to Wastewater Disposal).

(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.13 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.

(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.13 of this title (relating to Wastewater Disposal).

§311.15. Inks Lake and Lake Buchanan Watershed Management. Any proposed new or expanded treatment facility in the Inks Lake or Lake Buchanan watersheds but outside the Inks Lake or Lake Buchanan water quality areas may be permitted only if it provides disposal without discharge in accordance with §311.13 of this title (relating to Wastewater Disposal) or if the applicant establishes that any alternative proposed

wastewater treatment and disposal will consistently protect and maintain the existing water quality of Inks Lake and Lake Buchanan.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603261 James K. Rourke, Jr.
General Counsel
Texas Water Development Board

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 463-8069.



Subchapter C. Water Quality Management in the Clear Lake Watershed

★ 31 TAC §311.21, §311.22

The Texas Water Commission proposes new §311.21, §311.22, concerning water quality management within the Clear Lake watershed.

Although this subchapter is proposed as new, the regulations have been in effect in §§333.1-333.3, under the jurisdiction of the Texas Water Development Board. Senate Bill 249, passed by the 69th Legislature, 1985, and effective September 1, 1985, transferred jurisdiction under the Texas Water Code, §26.011 to the Texas Water Commission.

| Item | Not to Exceed Effluent Concentration (mg/l) | |
|---|--|---------------|
| | 30-Day Average | 7-Day Average |
| Biochemical Oxygen Demand 5-Day (BOD ₅) | 5 | 10 |
| Total Suspended Solids (TSS) | 12 | 20 |
| Ammonia as nitrogen (NH ₃ -N) | 2 | 10 |

The proposed regulations re-enact the Water Quality Management Rules for the Clear Lake watershed.

Section 311.21 states that all municipal waste discharges within the Clear Lake watershed shall improve and upgrade their facilities and operations to achieve the minimum effluent quality criteria listed in the section. The section also requires industrial waste discharges to meet effluent quality criteria commensurate with the criteria applicable to municipal discharges.

Section 311.22 directs the commission to revise permits in the Clear Lake watershed to conform to the requirements in §311.21 upon the request of the executive director.

The purpose of these sections is to protect the water quality in Clear Lake.

Bobbie Barker, chief, Fiscal Services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Barker also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to continue to maintain and improve the water quality of Clear Lake. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Pat Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711.

The new sections are proposed under the Texas Water Code, §5.013 and §26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.21. Clear Lake Watershed Effluent Quality Criteria.

(a) All municipal waste discharges within the Clear Lake watershed (excluding those discharges which have pursued an acceptable alternative, such as diversion of effluent out of the watershed) shall improve and upgrade their waste treatment facilities and operations as needed to achieve, at a minimum, the following effluent quality criteria:

| Item | Not to Exceed Effluent Concentration (mg/l) | |
|---|--|---------------|
| | 30-Day Average | 7-Day Average |
| Biochemical Oxygen Demand 5-Day (BOD ₅) | 5 | 10 |
| Total Suspended Solids (TSS) | 12 | 20 |
| Ammonia as nitrogen (NH ₃ -N) | 2 | 10 |

(b) Effluent disinfection shall conform to Effluent Set A of "A Policy for Effluent Standards for Domestic Wastewater Treatment Plants," contained in §309.4 of this title (relating to Table 1, Effluent Standards for Domestic Wastewater Treatment Plants). The commission, upon a satisfactory showing by the applicant that no significant adverse water quality condition will occur may provide in the permit that the ammonia as nitrogen limitation may be calculated on an annual basis or grant variances for seasonal variations during winter months so long as such seasonal variation does not exceed 5 milligram/liter monthly average or 2 milligram/liter on an annual average.

(c) All industrial waste discharges within the Clear Lake watershed (excluding those discharges which have pursued an acceptable alternative, such as diversion of effluent out of the watershed) shall improve and upgrade their waste treatment facilities and operations as needed to achieve, at a minimum, effluent limitations commensurate with the treatment efficiencies required of municipal waste discharges to the Clear Lake watershed. In addition, each industrial discharge should be prepared to meet more stringent effluent limitations on a case-by-case basis if warranted by water quality considerations.

§311.22. Implementation of Effluent Quality Criteria. The commission, upon the request of the executive director, shall revise those permits in the Clear Lake watershed to reflect the terms and conditions of this subchapter and include an implementation schedule to restore, preserve, and maintain the quality of water in Clear Lake as expeditiously as possible.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603262

James K. Rourke, Jr.
General Counsel
Texas Water Development
Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 463-8069.

★ ★ ★

Subchapter D. Water Quality Management Within Lake Houston Watershed

★31 TAC §§311.31-311.36

The Texas Water Commission proposes new §§311.31-311.36, concerning water quality management within the Lake Houston watershed.

Although this subchapter is proposed as new, the regulations have been in effect in §§333.41-333.47, under the jurisdiction of the Texas Water Development Board. Senate Bill 249, passed by the 69th Legislature, 1985, and effective September 1, 1985, transferred jurisdiction under the Texas Water Code, §26.011 to the Texas Water Commission.

The proposed subchapter re-enacts the Water Quality Management Rules for the Lake Houston watershed, except for former §333.46 which concerned hydraulic overloads.

Section 311.31 defines the Lake Houston watershed.

Section 311.32 applies to domestic permittees and states that all new permit-

tees, permittees who construct facility expansions, and permittees requesting increased effluent flows must comply with the effluent limitations referred to in the section by the specified deadlines.

Section 311.33 applies to industrial discharges and states that all new permittees, permittees who construct facility expansions, and permittees requesting increased pollutant loadings shall comply with the effluent limitations referred to in the section by the specified deadlines.

Section 311.34 requires sewage treatment facilities which use land disposal methods to provide secondary treatment of the effluent before it is discharged into storage ponds.

Section 311.35 requires a solids management plan to be submitted with all applications for renewal, amendment, or new permits. The section lists the minimum information required in reports describing solids management plans.

Section 311.36 requires the installation of dual-feed chlorination systems by permittees utilizing gaseous chlorination disinfection systems by May 1, 1986. The disinfection systems are required to be operated so that a maximum chlorine residual of 4.0 milligrams per liter is not exceeded.

The purpose of these sections is to protect and improve the water quality of Lake Houston and its tributaries.

Bobbie Barker, chief, Fiscal Services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Ms. Barker also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to maintain and improve the water quality in the Lake Houston watershed area. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Pat Barnhard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711.

The new sections are proposed under the Texas Water Code, §5.013 and §26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.31. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Lake Houston watershed—The entire drainage area of Lake Houston, with the ex-

ception of that portion of the drainage basin of the West Fork of the San Jacinto River which lies upstream of the Lake Conroe Dam.

§311.32. Effluent Requirements (Domestic). All domestic sewage treatment permit applicants, all permittees who construct authorized treatment facility expansions, and all permittees who apply for increases in their permitted effluent flows, who propose to dispose of treated sewage effluent by discharge into the waters of the state in the Lake Houston watershed shall, at a minimum, achieve the effluent treatment level specified in Effluent Set 2-N and A in §309.4 of this title (relating to Table I—Effluent Standards for Domestic Wastewater Treatment Plants), except as otherwise provided in this section. All permittees within the Lake Houston watershed that are not covered by the preceding sentence shall achieve the treatment levels specified in Effluent Sets 2-N and A in §309.4 of this title (relating to Table I—Effluent Standards for Domestic Wastewater Treatment Plants) on or before July 1, 1988. Time extensions may be specified by the Texas Water Commission in wastewater discharge permits on a case-by-case basis where circumstances so dictate, but in no case will extend beyond January 1, 1990. The Texas Water Commission may require more stringent effluent limitations where advisable to protect water quality. The Texas Water Commission may authorize variances to allow less stringent effluent limitations as are necessary based on considerations consistent with the provisions of the Texas Water Code.

§311.33. Effluent Requirements (Industrial).

All industrial wastewater treatment permit applicants, all permittees who construct authorized treatment facility expansions, and all permittees who apply for increases in pollutant loadings, who propose to dispose of treated industrial wastewater effluent by discharge into the waters of the state in the Lake Houston watershed shall achieve effluent treatment levels commensurate with the goals of this rule. All permittees within the Lake Houston watershed that are not covered by the preceding sentence shall achieve the effluent requirements of this section on or before July 1, 1988. Time extensions may be specified by the Texas Water Commission in wastewater discharge permits on a case-by-case basis where circumstances so dictate, but in no case will extend beyond January 1, 1990. The Texas Water Commission may require more stringent effluent limitations where advisable to protect water quality. The Texas Water Commission may authorize a variance to allow less stringent effluent limitations based on considerations consistent with the provisions of the Texas Water Code.

§311.34. Land Disposal. All sewage treatment facilities which dispose of wastewater effluent by land disposal methods in the

Lake Houston watershed shall provide secondary treatment as specified in §§309.1-309.4 of this title (relating to Introduction and Purpose, Rationale for Effluent Sets, Application of Effluent Sets and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal facilities shall be designed, constructed, and operated in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent).

§311.35. *Domestic Solids Treatment.* The permittee of a domestic sewage treatment facility discharging into the Lake Houston watershed which requests renewal or amendment of an existing permit, or any person who submits an application for a new wastewater discharge permit within the Lake Houston watershed shall be required to submit with the application for renewal, amendment, or new permit, a solids management plan. The report describing such plan shall contain, at a minimum, the following information:

- (1) the type of wastewater treatment process used;
- (2) the dimensions and capacities of all solids handling and treatment units and processes;
- (3) calculations showing the amount of solids generated at design flow and at 75%, 50%, and 25% of design flow;
- (4) operating range for mixed liquor suspended solids in the treatment process based on the projected actual and design flow expected at the facility;
- (5) a description of the procedure and method of solids removal from the treatment process;
- (6) quantity of solids to be removed from the process and schedule for removal of solids that is designed to maintain an appropriate solids inventory; and
- (7) identification of the ultimate disposal site and a system of documenting the amount of solids removed in dry weight form.

§311.36. *Disinfection.*

(a) By May 1, 1986, the permittees of all domestic sewage and industrial wastewater treatment facilities discharging into the Lake Houston watershed which utilize gaseous chlorination disinfection systems shall install dual-feed chlorination systems which are capable of automatically changing from one cylinder to another.

(b) Chlorination disinfection systems shall be operated so that a minimum chlorine residual of 1.0 milligram per liter (mg/l) and a maximum chlorine residual of 4.0 mg/l measured on an instantaneous grab sample is not exceeded for discharges into the Lake Houston watershed.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603283

James K. Rourke, Jr.
General Counsel
Texas Water Development
Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 463-8089.

★ ★ ★

Subchapter E. Colorado River Watershed

★31 TAC §§311.41-311.44

The Texas Water Commission proposes new §§311.41-311.44, concerning water quality management in the Colorado River and Onion Creek watersheds.

Due to increasing concern over the water quality of the Colorado River, the Texas Water Commission proposes rules with stringent requirements for the protection of water quality in Segment 1428 of the Colorado River and Segment 1427, Onion Creek. These sections require all new and existing domestic sewage discharges to meet the levels of effluent treatment recommended by the Governor's Select Committee on Water Quality Standards for the Colorado River. The Governor's Select Committee issued a report on April 8, 1985, which recommended certain levels of treatment for effluent discharged into the main stem of Segment 1428 of the Colorado River, and its tributaries, and for Segment 1427, Onion Creek, and its tributaries.

The Governor's Select Committee recommended that a study on nutrient loadings be conducted for Segment 1428 of the Colorado River Basin to determine to what extent nutrients should be controlled for this segment and if so, the appropriate nutrient removal limits. The nutrient study is scheduled to be completed by the end of the first quarter of 1987. The discharge limits prepared herein are subject to revision pending the completion of the nutrient study. Copies of the Governor's Select Committee's report are available for public review in the Texas Water Commission Library, Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin, Texas.

Section 311.41 states the scope of Subchapter E. The sections apply to Segment 1428, the Colorado River and its tributaries, and to Segment 1427, Onion Creek, and its tributaries. The portion of the Colorado River in Segment 1428 extends from Longhorn Dam to 100 meters downstream of State Highway 95/State Highway Loop 230 bridge in Smithville.

Section 311.42 sets the effluent level required for discharges directly to the main stem of Segment 1428 of the Colorado River. The section applies to all new do-

mestic sewage treatment permit applicants, all permittees constructing facility expansions, and all permittees applying for increased flows. The section requires treatment to the following levels, all based on a 30-day average: 10 milligrams per liter (mg/l) biochemical oxygen demand; 15 mg/l total suspended solids, 2 mg/l ammonia nitrogen; and at least 5 mg/l dissolved oxygen content. Existing facilities must meet this level of treatment by June 1, 1990, except as the commission may vary the date on a case-by-case basis.

Section 311.43 sets the level of treatment required for discharges into tributaries of Segment 1428 of the Colorado River and for Segment 1427, Onion Creek, and its tributaries. This section requires treatment to the following levels, again based on a 30-day average: 5 mg/l biochemical oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia nitrogen, and 1 mg/l phosphorus. All existing facilities in this area must meet this level of treatment by June 1, 1990. The City of Austin's Walnut Creek treatment facility must meet 10 mg/l biochemical oxygen demand, 15 mg/l total suspended solids, 2 mg/l ammonia nitrogen, and 5 mg/l dissolved oxygen.

Section 311.44 requires installation of dual-feed chlorination systems that can change from one cylinder to another. These systems must be installed at all new treatment facilities on Segment 1428 of the Colorado River and its tributaries, and in Segment 1427, Onion Creek, and its tributaries. All existing facilities must install these systems by June 1, 1990. Minimum and maximum chlorine residuals of 1.0 mg/l and 4.0 mg/l, based on a grab sample, are required by this section. The commission may consider other forms of disinfection on a case-by-case basis.

The purpose of these sections is the protection and improvement of water quality in the Colorado River as recommended by the Governor's Select Committee's report.

Bobbie Barker, chief, Fiscal Services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering the sections. The effect on local government will be an estimated additional cost of \$2.5 million in 1986; \$5 million in 1987; \$6 million in 1988; and \$7 million in 1989 and 1990.

Ms. Barker also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be protection and improvement of water quality in the Colorado River. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Pat Barnhard, Staff Attorney,

Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The new sections are proposed under the Texas Water Code, §5.013 and §26.011, which provide the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.41. Scope. These sections apply to the Colorado River watershed in Segment 1428, of the Texas Surface Water Quality Standards, including the Colorado River from Longhorn Dam to 100 meters downstream of State Highway 95/State Highway Loop 230 bridge in Smithville, Texas, and all tributaries of that segment of the Colorado River, and to Segment 1427, Onion Creek, and its tributaries, of the Texas Surface Water Quality Standards, from its confluence with the Colorado River to the most upstream crossing of FM Road 165.

§311.42. Effluent Requirements for the Main Stem of Segment 1428 of the Colorado River.

(a) All domestic sewage treatment permit applicants, all permittees who construct treatment facility expansions, and all permittees who apply for increases in their permitted effluent flows who propose to dispose of treated sewage effluent by discharge directly into Segment 1428 of the Colorado River shall, at a minimum, achieve the following level of effluent treatment:

(1) 10 milligrams per liter of biochemical oxygen demand, based on a 30-day average;

(2) 15 milligrams per liter total suspended solids, based on a 30-day average;

(3) two milligrams per liter of ammonia nitrogen, based on a 30-day average; and

(4) five milligrams per liter, at least, of dissolved oxygen content, based on a 30-day average.

(b) Existing plants which discharge treated domestic sewage effluent directly into Segment 1428 of the Colorado River must meet the level of treatment set forth in subsection (a) of this section, by June 1, 1990. The commission may modify the date for compliance with the treatment levels based on consideration of economic and technical feasibility, actual or potential environmental impacts, or other appropriate factors.

(c) The treatment level in subsection (a) of this section, may be modified if the results of water quality studies show that this is necessary.

§311.43. Effluent Requirements for All Tributaries of Segment 1428 of the Colorado River and Segment 1427, Onion Creek, and its Tributaries, of the Colorado River Basin.

(a) All domestic sewage treatment permit applicants, all permittees who construct treatment facility expansions, and all permittees who apply for increases in their permitted effluent flows who propose to dispose

of treated sewage effluent by discharge into the waters of the state in the tributaries of Segment 1428 of the Colorado River or directly into Segment 1427, Onion Creek, of the Colorado River Basin and its tributaries shall, at a minimum, achieve the following level of effluent treatment:

(1) five milligrams per liter of biochemical oxygen demand, based on a 30-day average;

(2) five milligrams per liter of total suspended solids, based on a 30-day average;

(3) two milligrams per liter of ammonia nitrogen, based on a 30-day average; and

(4) one milligram per liter of phosphorus, based on a 30-day average.

(b) All existing facilities which discharge treated domestic sewage effluent into tributaries of Segment 1428 of the Colorado River or Segment 1427, Onion Creek, and its tributaries, of the Colorado River Basin, must meet the level of treatment specified in subsection (a) of this section, by June 1, 1990.

(c) The City of Austin's Walnut Creek wastewater treatment facility, located at the south side of FM Road 969, approximately one mile east of the intersection of FM Road 969 and U.S. Highway 183 in Travis County, Texas, must meet, a minimum, the effluent treatment level in §311.42(a) of this title (relating to Effluent Requirements for the Main Stem of Segment 1428 of the Colorado River). The City of Austin's Walnut Creek plant must meet the requirements of this section by June 1, 1990.

§311.44. Disinfection.

(a) All sewage treatment facilities discharging into Segment 1428 of the Colorado River Basin and its tributaries, or Segment 1427, Onion Creek, and its tributaries, shall install dual-feed chlorination systems which are capable of automatically changing from one cylinder to another at the time they are constructed or by June 1, 1990.

(b) Chlorination disinfection systems shall be operated so that a minimum chlorine residual of 1.0 milligrams per liter and a maximum chlorine residual of 4.0 milligrams per liter, measured on an instantaneous grab sample, are met for all discharges into Segment 1428, the Colorado River Basin, and its tributaries, or Segment 1427, Onion Creek, and its tributaries.

(c) The commission may consider alternative disinfection methods on a case-by-case basis.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603264

James K. Rourke, Jr.
General Counsel
Texas Water Development Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call (512) 463-8069

Part XX. Texas Water Development Board Chapter 363. Rules Relating to Financial Programs

The Texas Water Development Board proposes new §§363.1-363.4, 363.31-363.37, 363.52-363.60, 363.81-363.85, 363.111, 363.112, 363.161-363.165, and 363.181, concerning rules relating to financial programs.

These new sections are proposed in place of withdrawn §§363.1-363.4, 363.31-363.38, 363.52-363.60, 363.81-363.85, 363.111, 363.112, 363.161-363.165 and 363.181, originally published in the January 17, 1986, issue of the *Texas Register* (11 TexReg 281). These new sections are changed from the January 17, 1986, publication to incorporate changes suggested after the publication and at a public hearing on the sections. Sections 363.71, 363.72, 363.91, 363.92, 363.101-363.108, 363.121-363.126, and 363.141, also published January 17, 1986, have not been withdrawn or changed. Chapter 363 provides policy and procedural guidance for the preparation and processing of all applications for board loans from water development funds and water assistance funds, and for the state acquisition of water, storage, and wastewater facilities.

Changes in §363.2 from the January 17, 1986, publication include elimination of the terms developer project, 100-year flood-fringe, 100-year floodplain, 100-year floodway, and watershed. The definition of non-structural flood control is expanded to include zoning and floodplain controls.

Sections 363.31-363.37, which set out proposed interpretation of the various loan and acquisition programs, represent the most significant revisions of the rules proposed in the January 17, 1986, issue of the *Texas Register*. The language is revised to reflect a more positive approach by the board in addressing regional water-related problems. The revised language provides that regional water supply and wastewater collection and treatment facilities, water supply projects involving conversion from ground water to surface water sources, and regional or area-wide flood control measures will not have to meet the hardship test nor exhaust all other sources of financing before the board will provide financial assistance.

The language in §363.35 is modified to state that the board may make commitments for loan-assisted projects prior to all state permits being received, but the board will not release any funds until all state permits have been obtained. With respect to projects involving state participation (acquisition), however, all state permits must be obtained before financial commitments are made by the board. The January 17, 1986, draft of §363.37 would

have required that, as a general rule, all applicants have permits before the board could extend any financial commitments.

In §363.36, an applicant requesting board participation (acquisition) in a project should submit a projected schedule for ultimate purchase of the board's interest in the project; however, the inclusion of such a schedule in a master agreement for the project will be discretionary with the board, which would evaluate each project on its own merits.

Other major changes from the sections as published on January 17, 1986, are as follows. In §363.52(b)(12), the list of required water conservation information is amended to include water recycling and reuse and water conserving landscaping. These two items also are added to §363.85 (b), which describes the content of the water conservation program. Also in the water conservation area, §363.59 is revised to require an applicant to consider each conservation element of §363.52(b) (12) in its water conservation plan, and to explain why it is not including any of the elements in the plan. Section 363.59 is revised to set forth more specific criteria by which an applicant may be exempt from filing a water conservation plan. In the acquisition programs, political subdivisions will be required to develop a water conservation plan and implement a conservation program under §§363.111 (a)(17), 363.161(a)(12), and 363.163. The political subdivision issuing bonds would be required under §363.58 to include in its bond resolution or ordinance a provision that it will implement any water conservation program required by the board. The executive director, under §363.181, would require loan recipients to take any corrective action needed to effectively implement the water conservation program during the pendency of the loan.

In §363.52(b)(6)(B), the applicant is required to include a statement regarding not only the need for the project but also the timing of the need. Section 363.53 is revised to specify that the executive administrator will consider comments by persons as well as agencies in evaluating the environmental impact of a project. Section 363.54(h)(2) will require a schedule of sewer rates as well as water rates. Applicants must show that they have included the Texas Department of Health requirements for quantity and storage for public water supply under §363.55(a)(12). Applicants for assistance for flood control measures will be required to demonstrate the project feasibility and to provide a description of alternatives, including non-structural alternatives, studied under §363.56(2)(O). The specific listing of environmental considerations for sewer projects is eliminated, since §363.53 provides a description of required environmental data. Section 363.111 is changed to address concerns regarding charge for recreational facilities.

Gladys Stansberry, director of accounting, has determined that for the first five-year period the sections will be in effect, there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government will be an estimated additional cost of \$427,000 in fiscal year 1986, \$671,000 each year in 1987-1989, and \$731,000 in 1990. Funds have been appropriated by the 69th Legislature, 1985, for fiscal years 1986 and 1987. The effect on local government will be an estimated reduction in cost of \$23 million per year in 1986-1990. This estimate is based upon the savings which will accrue to local political subdivisions due to the interest differential between the board's purchase of their bonds as opposed to market sale of those bonds.

This assumes the board's rates are 2.0% lower than the market rate and that the board will loan \$100 million each year, with each loan being for a 21-year period. There will be no effect on small businesses as a result of enforcing or administering the sections.

Ms Stansberry also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased ease in dealing with one set of rules for all board loan and acquisition programs under the development fund and water assistance fund, and the ability of political subdivisions to participate in the loan and acquisition programs, as expanded by House Bill 2. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

The new sections are proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

Introductory Provisions

★ 31 TAC §§363.1-363.4

§363.1. Scope of Rules. These sections, adopted pursuant to the Texas Water Code, §6.101, shall govern the board's Water Loan Assistance Program, Water Development Program, Water, Wastewater and Storage Facilities Acquisition Program, Water Quality Enhancement Program, and Flood Control Program as authorized by the constitution of the State of Texas, Article III, §§49-c, 49-d, 49-d-1, 49-d-2, and 49-d-3, and the Texas Water Code, Chapters 15-17.

§363.2. Definitions of Terms. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Applicant—Any participating political subdivision or group of participating political subdivisions who shall formally petition the board for approval with respect to a particular project, proposal, or request by

filing the necessary application documents required by these sections.

Board—The Texas Water Development Board.

Change order—The documents issued by the participating political subdivision, with concurrence of the contractor upon recommendation of the project engineer and with the approval and consent of the executive administrator, development fund manager, board, and/or commission, as may be appropriate, authorizing a change, alteration, or variance in previously approved engineering plans and specifications, including, but not limited to, additions or deletions of work to be performed pursuant to the contract or a change in costs for work performed pursuant to the contract.

Client—A storage client, water client, water treatment client, or wastewater client.

Closing or date of closing—The time of actual transfer of funds from the board to a participating political subdivision for purposes of developing, constructing, or acquiring a project.

Commission—The Texas Water Commission or its predecessors.

Conservation—The development of water resources; and those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

Construction—Any one or more of the following:

(A) preliminary planning to determine the feasibility of a project;

(B) engineering, architectural, environmental, legal, title, fiscal, or economic studies;

(C) surveys, designs, plans, working drawings, specifications, procedures;

(D) any condemnation or other legal proceeding; and

(E) erection, building, acquisition, alteration, remodeling, improvement, or extension of a project or the inspection or supervision of any of the foregoing items.

Development funds—Such monies as are accumulated in the treasury of the State of Texas from the sale of Texas water development bonds authorized by the Texas Constitution, Article III, §49-c and §49-d, and from bonds dedicated to use for the purposes of those sections under the Texas Constitution, Article III, §49-d-2.

Direct cost—The principal amount the board pays or agrees to pay for the state's interest in facilities acquired by the board.

Financial assistance—Loans by the board pursuant to the Texas Water Code, Chapters 15 and 17, or state facilities acquisition pursuant to the Texas Water Code, Chapter 16.

Firm annual yield—The amount of water that can be supplied annually from a reservoir under the minimum streamflow

conditions during a recurrence of the historical drought of record.

Flood control program—The procedure for the investment of flood control funds by the purchase of bonds or other obligations of a political subdivision to finance a project for flood control as authorized by the Texas Constitution, Article III, §49-d-2, and by the Texas Water Code, Chapter 17, Subchapter H.

Lending rate—

(A) when applied to the Water, Wastewater, and Storage Acquisition Program, the amount of interest calculated when one-half of 1.0% is added to the weighted average net effective interest rate on the three most recent issues of water development bonds;

(B) when applied to the Water Development, Flood Control, or Water Quality Enhancement Programs, an amount of interest calculated by adding one-half of 1.0% to the weighted average of the cost of uncommitted funds secured from the sale of Texas water development bonds as of the date of the latest sale of Texas water development bonds; and

(C) when applied to the Water Loan Assistance Program, the annual rate of interest which is the lower of 12% or the lowest point of the bond buyer index (of 11 municipal bonds) during the six months immediately preceding the month in which the board extends a loan commitment to an applicant.

Master agreement—The agreement between the board and the participating political subdivision for a project in which the board had acquired or is to acquire an interest.

Net effective interest rate—The rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue after deducting all premiums and adding all discounts involved by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.

Optimum development—The project that will develop the water resources at a site giving consideration to maximum yield, efficiency, economics, environmental concerns, and projected long-range water needs of the region.

Participating political subdivision—Any political subdivision or body politic and corporate of the State of Texas which proposes to obligate itself in a particular project and seeks the board's participation under the Water Loan Assistance Program, Water Development Program, Water, Wastewater, and Storage Facilities Acquisition Program, Flood Control Program, and/or the Water Quality Enhancement Program, including, but without limitation, any type of authority or district created or organized pursuant to the provisions of the Constitution of the State of Texas, Article III, §52, or Article XVI, §59; any interstate compact commission to which the State of Texas is a party;

any municipal corporation or city, whether operating under the Constitution of the State of Texas, Article XI, §5 (Home Rule Amendment), or under the general law; any county; and any nonprofit water supply corporation created and operating pursuant to Texas Civil Statutes, Article 1434a.

Permit—Includes any one of the following:

(A) the authority granted by the commission to appropriate, divert, and use state waters;

(B) the authority granted by the commission to construct a dam and reservoir;

(C) the authority granted by the commission to establish the treatment which shall be given to and the conditions under which waste may be discharged into or adjacent to waters in the state; and

(D) plan approval required by the Texas Water Code, §16.236, for projects that change the flood waters of a stream.

Project—Any engineering undertaking, acquisition, or construction for the purpose of any one or more of the following, as applied to the Water Loan Assistance Program, Water Development Program, Water, Wastewater, and Storage Facilities Acquisition Program, Water Quality Enhancement Program, or Flood Control Program, as may be appropriate:

(A) conservation and development of the surface or subsurface water resources in the State of Texas, including the control, storage, and preservation of its storm and flood waters and waters of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage facilities, including underground storage and the acquisition or purchase of rights in the underground water and the drilling of well;

(B) development of the saline and brackish water resources in the state, including any system necessary for desalting;

(C) transportation of water, including any system necessary for the transporting of water to filtration and treatment plants or from filtration and treatment plants to storage, including facilities for transporting waters from such storage or plants to wholesale purchasers;

(D) water treatment, including filtration and water treatment plants and wastewater treatment plants;

(E) treatment works, including any devices and systems used in the storage, treatment, recycling, and reclamation of waste or which are necessary to recycle or reuse water at the most economical cost over the estimated life of the works;

(F) structural and nonstructural flood control and drainage facilities, including any property and any system of canals, drainage channels, dams, reservoirs, detention ponds, siphons, or combinations thereof, intended to protect human life or property or essential as an integral part of other

kinds of projects eligible for financial assistance.

Project engineer—The engineer or engineering firm retained by the applicant to provide complete professional engineering services during the planning, design, and construction of the project.

Regional facility—A water supply, wastewater collection and treatment, or other system which incorporates multiple service areas or drainage areas into an areawide service facility, thereby reducing the number of required facilities, or any system which serves an area that is other than a single county, city, special district, or other political subdivision of the state, the specified size of which is determined by any one or combination of population, number of governmental entities served, and/or service capacity. Regional wastewater treatment facilities may also include those identified in the approved state water quality management plan and the annual updates to that plan.

Storage client—Any person acting within his authority who acquires or seeks to acquire by purchase, transfer, or lease all or any part of the storage facilities owned by the state in a particular reservoir.

Storage facilities—The whole or any definable part or portion of a dam or reservoir, whether existing or planned, in which water may be stored for useful purposes.

Treatment works—Any devices and systems which are used in the storage, treatment, recycling, and reclamation of waste or which are necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including sites therefor and acquisition of the land that will be a part of, or used in connection with, the treatment process or is used for ultimate disposal of residues resulting from such treatment; and any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste; or facilities to provide for the collection, control, and disposal of waste.

Waste—The same meaning as provided by the Texas Water Code, §26.001.

Wastewater client—Any person acting within his authority who acquires or seeks to acquire by purchase, transfer, or lease all or any part of a wastewater facility owned by the state in a particular regional wastewater treatment facility.

Wastewater facility—The whole or any definable part or portion of a regional wastewater treatment and/or collection facility, whether existing or planned, in which the board has an interest.

Water client—Any person acting within his authority who acquires or seeks

to acquire the right to use water from storage facilities owned by the state in a particular reservoir.

Water conservation plan—A report outlining the methods and means by which water conservation may be achieved.

Water conservation program—A comprehensive description and schedule of the methods and means to implement and enforce a water conservation plan.

Water development bonds—The Texas water development bonds authorized by the Texas Constitution, Article III, §49-c and §49-d, and bonds dedicated to use for the purposes of those sections and for flood control purposes under the Texas Constitution, Article III, §49-d-2.

Water development program—The procedure for the investment of development funds by the purchase of bonds or other obligations issued by a political subdivision to finance a project as authorized by the Texas Constitution.

Water facility—The whole or any definable part or portion of a regional water treatment and distribution facility, whether existing or planned, in which the board has an interest.

Water Loan Assistance Program—The procedure for the investment of water loan assistance funds by contracts to purchase bonds issued by a political subdivision to finance a project as authorized by the Texas Water Code, Chapter 15, Subchapter C.

Water quality enhancement bonds—The Texas water development bonds authorized by the Texas Constitution, Article III, §49-d-1, and bonds dedicated to use for the purposes of that section by the Texas Constitution, Article III, §49-d-2.

Water quality enhancement funds—The proceeds from the sale of Texas water development bonds issued under the authority of the Texas Constitution, Article III, §49-d-1, and proceeds from bonds dedicated to use for the purposes of that section by the Texas Water Constitution, Article III, §49-d-2.

Water quality enhancement loan—The purchase by the state of the bonds or other obligations of a political subdivision with water quality enhancement funds.

Water Quality Enhancement Program—The procedure for the investment of water quality enhancement funds by the purchase of bonds issued by a political subdivision to finance treatment works for the purposes authorized by the Texas Constitution, Article III, §49-d-1.

Water treatment client—Any person acting within his authority who acquires or seeks to acquire by purchase, transfer, or lease all or any part of the water treatment and distribution facilities owned by the state in a particular regional water treatment facility.

Water, Wastewater, and Storage Facilities Acquisition Program—The procedure for investment of development funds in a project by the purchase or acquisition of an

interest in such project as authorized by the Texas Constitution, Article III, §49-d and §49-d-2, and pursuant to the board rules.

§363.3. Definition of Terms for Flood Control Program. The following words and terms, when used in this chapter, in relation to the Flood Control Program, shall have the following meanings, unless the context clearly indicates otherwise.

Financial assistance—Any loan of flood control funds made to a political subdivision for structural or nonstructural flood control measures through the purchase of bonds or other obligations of the political subdivision.

Flood control funds—The proceeds from the sale of Texas water development bonds issued under the authority of the Texas Constitution, Article III, §49d-2, and reserved for flood control purposes.

Floodplain—Land subject to inundation by the 100-year-frequency flood.

Floodplain management plan—A comprehensive plan for flood control within a watershed, based on analyses of alternative nonstructural and structural means of reducing flood hazards, including assessments of costs, benefits, and environmental effects, and may include preliminary design of structural flood control projects.

Nonstructural flood control—Includes such measures as:

- (A) acquisition of floodplain land for use as public open space;
- (B) acquisition and removal of buildings located in a floodplain;
- (C) relocation of residences or buildings removed from a floodplain; and
- (D) zoning and other ordinance controlled use of floodplains.

Structural flood control—Includes such measures as construction of stormwater retention basins, enlargement and/or realignment of stream channels, and modification or reconstruction of bridges.

100-year flood—The peak flood discharge of a stream, based upon statistical data, which would have a 1.0% chance of occurring in any given year.

§363.4. Suspension of rules. The board may suspend or waive a rule, in whole or in part, upon the showing of good cause or when, at the discretion of the board, the particular facts or circumstances render such waiver of the rule appropriate in a given instance.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603282

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 463-7850.

★ ★ ★

Policy Declarations

★ 31 TAC §§363.31-363.37

The new sections are proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

§363.31. General Policies.

(a) In accordance with statutory directives, the goal of the Texas Water Development Board is to provide financing where appropriate and in the public interest; to implement projects and programs necessary to further orderly development and management of the states water resources; to maintain and enhance, where feasible, the quality of this resource; and to promote measures designed to achieve conservation of the waters of the state in accordance with the intent of the Texas legislature and the people of Texas as expressed through enactment and voter approval of House Joint Resolution 6 and House Bill 2, 69th Legislature, 1985. The programs implemented by these sections will continue to assist eligible political subdivisions of the state which are unable to implement projects without state assistance (commonly referred to as hardship loans), as the water development fund has done in the past, and will further the orderly development of regional water and wastewater facilities and flood control measures through loans and through state participation in such projects.

(b) In accordance with the provisions of House Bill 2, 69th Legislature, 1985, the board will encourage local political subdivisions of the state to implement regional water supply and wastewater treatment facilities, and flood management measures, where such facilities and measures are appropriate, more efficient and more cost-effective, and/or environmentally sound. Amendments to the Texas Constitution approved by the voters on November 5, 1985, authorize a substantial increase in the amount of state bonds which may be issued by the board to provide funds for state participation in projects, and also expand the types of water-related projects and measures eligible for state participation. Orderly planning and implementation of regional facilities will hopefully mitigate existing problems which have resulted from proliferation of multiple, commonly inefficient, and generally more costly water and wastewater systems in urban areas of the state, and may also prevent such problems from occurring in rapidly developing areas.

(c) Whenever possible, where state financial assistance is necessary to implement

a project, it is the board's preference that the application be filed under provisions of one of the several programs in which the board purchases bonds of local political subdivisions rather than under the board's water, wastewater, or storage facilities acquisition program. The board will require participating political subdivisions to use their own financial resources to the maximum extent possible, and to exhaust all other reasonable means of financing before seeking state participation. However, where political subdivisions are seeking to implement regional water supply and wastewater treatment facilities, regional or area-wide flood control measures, facilities to convert from the use of groundwater to the use of surface water in areas where continued reliance upon ground water is causing, or will cause, undesirable environmental and social problems, the board will consider state participation in accordance with legislative intent expressed in House Bill 2, 69th Legislature, 1985.

(d) It is the policy of the board to promote the conservation of water in the state by requiring implementation of those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

§363.32. *Eligible Facilities.*

(a) It is the policy of the board to finance water supply projects involving reservoirs, wholesale storage and distribution systems, wells, and filtration and water treatment plants, including any system necessary to transport water from storage to points of retail distribution or from source or storage to filtration and treatment plants, or points of retail distribution.

(b) It is the policy of the board to finance wastewater projects involving collection systems and treatment facilities. Only hardship loans will be made for facilities not determined to be regional in scope. Furthermore, hardship loans will not be made for collection systems to serve substantially undeveloped areas.

(c) It is the policy of the board not to finance retail water distribution systems or routine internal drainage facilities for cities, counties, towns, districts, or any other political subdivisions.

(d) It is the policy of the board to provide financing for the development of floodplain management plans and for structural and nonstructural flood control measures. Flood control measures funded by the board will, wherever possible and appropriate, constitute an element or elements of a comprehensive, area-wide plan for flood control or flood management. The board recognizes the magnitude of flooding problems in the state and the limited funds available to the board to assist political subdivisions in correcting these problems. It is therefore the

policy of the board to place a priority on flood control measures that are integral parts of regional watershed plans that include alleviation of existing flooding problems within already developed areas of watersheds.

(e) Applicants for flood control loans shall be located within an area in which National Flood Insurance is available at the time of application and throughout the life of the board's financial assistance.

(f) In the absence of any legislative appropriation for operation and maintenance expenses or other sources of revenue specifically for that purpose, the board will not bear any portion of the operation and maintenance expenses for state-owned interest in any water, wastewater, or storage facilities acquisition project, and any state interest is acquired without the assumption of any obligation relating to future operation and maintenance expenses. This section is subject to the provisions of the Texas Water Code, §16.1341.

§363.33. *Requirements as to Maturity.* It is the policy of the board to structure financial assistance to applicants such that the board can maximize the financial resources available to the board. The maturities on loan repayments and projected schedules for the purchase of the state's interest in a state acquisition project shall be structured in such a manner so as to encourage maximum utilization of any other public or private sources of funding.

§363.34. *Financing Requirements Beyond Current Board Capability.* If the board does not have sufficient financial resources available to meet the needs of all applicants for financial assistance, the development fund manager will prepare a complete report on such applications as if funds were available, and will recommend to the board that each particular project be included in, or excluded from, the board's biennial budget request to the legislative budget board and to the presiding officers of each house of the legislature and to the governor. The list of such projects included in the board's biennial budget request shall include relevant information on each project, a determination as to whether or not the project is consistent with the amended Texas Water Plan and/or the current State Water Quality Management Plan, local and regional plans, the potential environmental impacts of the project, and recommendations concerning the terms under which financial assistance should be made, as well as projected funds that would be required during each ensuing biennium to complete the project.

§363.35. *Permits.* The board will require an applicant seeking assistance under the Water, Wastewater, and Storage Facilities Acquisition Program to obtain appropriate state permits before the board will extend a commitment for financial assistance. The board may make commitments for loan-assisted projects prior to all state permits be

ing received, but will not deliver financial assistance funds under any of the authorized financial programs until an applicant for financial assistance has obtained all appropriate state permits.

§363.36. *Participation.* The legislature is empowered to place biennial limitations on the Water, Wastewater, and Storage Facilities Acquisition Program in order to control potential draws on the general revenue fund, to increase the number of facilities constructed, and to minimize financial risks to the state. In furtherance of these legislative objectives, and in order to assist the board in making the required statutory finding that it is reasonable to expect that the state will recover its investment in the facility, it is the policy of the board to require that at the time an application involving state participation is considered by the board, a projected schedule for purchase of the state's interest in the project be developed and presented to the board, unless to do so is inappropriate. Priority consideration will be given to applications involving other sources of funding, since one of the principal purposes of the fund is to encourage optimum development of the state's water resources and implementation of regional water supply, wastewater treatment, and flood control facilities, where appropriate.

§363.37. *Ancillary Recreational Facilities.* The board will consider applications by participating political subdivisions for assistance toward the purchase of land required for development of needed recreational facilities associated with a project. The primary emphasis in considering the recreational purpose of a project shall be the optimum public use and enjoyment of such project and recoupment of the state's investment in the development of the project. It is expressly provided that such planned facilities:

(1) shall be an integral part of the proposed project;

(2) shall be in an area where needed and not otherwise available to the general public;

(3) cannot be financed by any other source of funds;

(4) shall be operated so that any recreational use of water in the project will be in accordance with the commission's permit for same;

(5) shall have been submitted to the Texas Parks and Wildlife Department and/or other agencies having responsibility and jurisdiction in the premises for review and comment as to:

(A) the facilities for which there is the greatest need;

(B) adherence to applicable provisions of the state's comprehensive outdoor recreational plan; and

(C) consistency with an existing regional outdoor recreational plan and Texas Outdoor Recreation Plan;

(6) be supported by a system of fees and charges, where practicable, for use of

recreational areas to ensure proper operation and maintenance of such facilities and recoupment of the state's investment therein.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603293 Suzanne Schwartz
 General Counsel
 Texas Water Development
 Board

Earliest possible date of adoption.

May 12, 1986

For further information, please call
(512) 483-7850.

★ ★ ★

Applications to the Board

★ 31 TAC §§363.52-363.60

The new sections are proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

§363.52. *Required General Information.*

(a) An applicant seeking financial assistance should make an appointment with the staff of the development fund. At a minimum, the preapplication conference should be attended by a member of the governing body of the political subdivision, the entity's engineer, and financial advisor. The primary purpose of the meeting is to establish basic eligibility of the political subdivision for financial assistance. The determination of eligibility will, in most cases, be made at this meeting.

(b) Forty copies of an application shall be filed with the board. The following information is required on all applications to the board for financial assistance:

(1) legal name(s) of applicant and authority of law under which created;

(2) name, title, and address of official correspondent or representative for applicant and each participating political subdivision;

(3) names and titles of principal officers, including the managing official of applicant and each participating political subdivisions;

(4) name and address of project engineer; or if engineering will be performed by a federal agency, the name and address of the office of the federal agency performing such work;

(5) name and address of legal counsel for applicant. In an application for financial assistance which envisions the purchase of applicant's bonds by the board, the name and address of bond counsel is also required (if other than legal counsel) and the name and address of financial advisor or consultant;

(6) brief description of project including, but not limited to, the following:

(A) location;

(B) a comprehensive statement clearly demonstrating the project need and timing of need in sufficient detail to support and justify the project;

(C) the total estimated cost and allocation of cost to each purpose, such as water supply, recreation, flood control, transportation, or sewage treatment;

(D) if a dam and reservoir project is proposed, the estimated firm annual yield and proposed reservoir capacities for conservation storage, sediment storage, flood control storage, and storage for other purposes (specify each purpose);

(E) proposed allocation and source of project cost to each participating subdivision, state, and federal agency;

(F) proposed division of the total ownership interest in the project for each participating subdivision (and the board, if acquisition is contemplated); and

(G) source of project's water supply;

(7) if a federal project, the name of the federal agency and the extent to which federal planning has progressed. If a federal grant is involved, the amount of the total federal grant and the status of the application for the federal grant;

(8) with respect to each participating political subdivision, the legal procedures, such as confirmation elections, annexation proceedings, and contract and bond election required to enable the applicant to assume its obligations with respect to the project, including the stage to which any such procedures have progressed;

(9) information on the basis of which the board can determine whether:

(A) the state will recover its investment;

(B) the cost of such facilities to be acquired exceeds current financing abilities of the area involved; and

(C) whether such facilities can be otherwise financed without state participation;

(10) status of any proceedings to obtain a permit or other authorization from the commission or any other state or federal agency;

(11) if the application is for a water, wastewater, or storage facilities acquisition project, the following additional material:

(A) information regarding the inability of the applicant to finance development without state participation;

(B) estimated time and means for the recovery of the board's investment in the project from revenues, repurchase obligations of participating political subdivisions, or both; and

(C) evidence that the proposed facilities are consistent with the objectives of the state water plan and/or the state water quality management plan;

(12) required general information regarding any existing water conservation program, including, but not limited to, the following:

(A) education and information programs;

(B) plumbing code standards for water conservation in new construction;

(C) retrofit programs to improve water use efficiency in existing buildings;

(D) conservation-oriented water rate structures;

(E) universal metering and meter repair and replacement;

(F) leak detection and repair;

(G) drought contingency plans;

(H) ordinances and emergency procedures;

(I) water recycling and reuse; and

(J) water conserving landscaping;

(13) if an exemption from the water conservation program is requested under the Texas Water Code, §15.106(c) or §17.135(c), information by which the board can determine whether:

(A) an emergency exists;

(B) the amount of financial assistance requested is \$500,000 or less; or

(C) submission of a program is not necessary to facilitate water conservation.

§363.53. *Required Environmental Data.*

The application shall address the environmental effects of the project in accordance with the requirements of §§341.21-341.26 of this title (relating to Environmental Impact Statements) and §§341.41-341.43 of this title (relating to Guidelines on the Preparation of Environmental, Social, and Economic Impact Statements). Prior to taking an application to the board, the executive administrator shall determine if a complete environmental impact statement should be prepared, or if an environmental assessment following §§341.42-341.43 of this title (relating to Guidelines for the Preparation of Environmental, Social, and Economic Impact Statements) will be sufficient. After reviewing the submitted environmental information the executive administrator shall determine if sufficient environmental data have been supplied to forward the application to the board. The executive administrator shall recommend to the board whether the proposed project is environmentally sound based on the criteria and guidelines of the board and full consideration of the views and comments of other agencies and persons.

§363.54. *Required Fiscal Data.*

(a) The applicant shall submit a statement of the project engineer's most current estimate of project cost, itemized as to major facilities or items, including land and right-of-way costs, fees of engineers, all legal fees, fees of financial advisors and/or consultants, contingencies, and interest during construction.

(b) The following information is to be furnished when the applicant proposes to sell

bonds to finance the project, whether the purchasers are to be the board or others than the board:

(1) citation of statutory authority for issuance;

(2) type of bonds (i.e., general obligation, revenue, or combination). If revenues are to be pledged, state the source and nature of such revenue;

(3) amount of the issue;

(4) full name of issue(s);

(5) approximate date of issue(s);

(6) proposed maturities; and

(7) details of option for prior payments.

(c) The applicant shall submit the amount and source of any funds to be expended on the project.

(d) If applicant is authorized by law to levy and collect ad valorem taxes, give the information in paragraphs (1) and (2) of this subsection.

(1) If such right and power have been exercised, give the following information for each of the five preceding years:

(A) assessed valuation of taxable property;

(B) ratio of assessed valuation to actual market value in a specified year;

(C) maximum tax rate permitted by law per \$100 of assessed valuation;

(D) aggregate rate of all taxes levied and aggregate amount in dollars of taxes collected;

(E) total amount in dollars of taxes collected; and

(F) distribution of tax rate as between interest and sinking fund and other purposes.

(2) If applicant is newly created, or if it has never exercised its taxing power, give the following information:

(A) assessed valuation of taxable property if valuations have been established, and if not, the estimated total amount of the assessed valuation of taxable property. Indicate whether the figure represents actual valuation or an estimate; and

(B) maximum tax rate permitted by law per \$100 of assessed valuation.

(e) The applicant shall give details of any limitation governing amount of bonded or general obligation debt which applicant may incur.

(f) If applicant has bonds outstanding which are payable wholly or in part from ad valorem taxes, the following information shall be submitted:

(1) a complete description of each such issue of bonds, including title, date, interest rate, maturities, amount outstanding, and prepayment options;

(2) consolidated schedule of future requirements of principal and interest extended so as to reflect total annual requirements; and

(3) direct and overlapping debt statement.

(g) If financing of project will involve sale of bonds or other securities payable

wholly or in part from ad valorem taxes, the following information shall be submitted:

(1) schedule of proposed future maturities of principal and interest of proposed bonds plus total maturities of any outstanding bonds from subsection (f) of this section; and

(2) rate of interest assumed in computing future interest maturities on proposed bonds.

(h) If project for which state participation is desired is for purpose of extending, enlarging, or improving an existing system or facility, the following shall be submitted for each of the five preceding years to the extent available:

(1) comparative operating statement;

(2) schedule of water or sewer rates or service charges; and

(3) number of customers or patrons of system.

(i) The applicant shall provide a schedule of proposed rates required for financing the project under consideration, if different from subsection (h)(2) of this section.

(j) If applicant has bonds outstanding which are payable either wholly or in part from net revenues of a system or facility in connection with which the current project is planned, the following information shall be submitted:

(1) a complete description of each such issue of bonds, including title, date, interest rate, maturities, amount outstanding, and prepayment options; and

(2) consolidated schedule of future requirements of principal and interest extended so as to reflect total annual requirements.

(k) If financing of the project will require the sale of bonds or other securities payable either wholly or in part from net revenues of one or more facilities or systems, the following information shall be submitted:

(1) schedule of proposed future bonds plus total maturities of any outstanding bonds referred to in subsection (j)(2) of this section; and

(2) rate of interest assumed in computing future interest requirements on proposed bonds.

(l) The applicant shall provide a statement as to whether or not there has been a default in the payment of items of matured principal or interest and if so, give details.

(m) The applicant shall provide an annual audit of financial report prepared by an independent auditor as of the close of the preceding fiscal year. (Not required if applicant has no operating history).

(n) Where the project envisions the sale of revenue bonds, a schedule of the project engineer's estimate of future income and expense, showing the estimated amount of net revenue to accrue in each year during the life of any bonds to be issued.

§363.55. Required Engineering Feasibility Data for Water Related Projects. The ap-

plicant shall submit for approval four copies of an engineering feasibility report. Prior to submission of the report in the application, the applicant's engineer shall have met with the board's engineering staff to discuss the scope of the feasibility report. The report as presented in the application shall include:

(1) legal name of applicant and authority of law under which it was created and operates,

(2) name, address, and telephone number of project engineer;

(3) the location and description of the proposed project. As a minimum, this requirement may be met by showing location on a Texas Department of Highways and Public Transportation Planning Survey Division map (one-half size);

(4) if water development and/or water facilities acquisition project, the need for the project, including proposed purposes for which water will be stored or used and places of use for the water and projections of future estimated needs, uses, and places of use for the water;

(5) a description of facilities to be acquired or replaced;

(6) proposed improvements or enlargements of existing facilities;

(7) the basis of the design, including a detailed scope of operations for the project. Where extensions are proposed to an existing project, include an engineering functional evaluation of the existing facilities;

(8) the relationship of the project to other existing and proposed facilities in meeting long-range water quantity or water quality needs;

(9) the feasibility of the project, including description of all alternatives considered, evaluation of each alternative, and reasons for the selection of the proposed project. The report shall demonstrate that the proposed project represents the best alternative for water supply considering the economic, social, financial, environmental, and engineering aspects involved;

(10) if a dam and reservoir project, the proposed conservation, sediment, flood control, and other storage capacities; corresponding areas and elevations; the expected firm annual yield; expected quality of water impounded; and existing water rights and purposes of use affected by the project;

(11) total estimated cost and allocation of cost of each of the project purposes. Sufficient detail should be provided to support the estimated costs;

(12) when a public water supply project is proposed, consideration of the minimum requirements of the Texas Department of Health relative to quantity and storage;

(13) when a dam and reservoir is proposed:

(A) an area map on which the estimated acreage to be acquired and the proposed project take-line encompassing such acreage are shown. The area shall be delineated on a topographic quad sheet or equi-

valent such that areas can be easily determined;

(B) a detailed gross appraisal report, including a land-use and improvement summary for all proposed land purchases, prepared by a professional land appraiser. An additional land appraisal report may be required at the discretion of the board. The land values so determined shall be used as a basis for feasibility calculations. The estimated total land acquisition cost should include a provision for projected appraisal, title search, legal, and other associated costs;

(C) description of all improvements (including roads, cemeteries, railroads, and public utilities) in the project area that must be relocated or protected;

(D) letters, agreements, or other evidence from owners and/or responsible entities on improvements to be relocated or protected, stating their position on acceptable means for such relocation or protection and the estimated cost therefore; and

(E) the proposed recreational development and management plan, including anticipated buildup in demand, initial facilities to be provided, and proposed area to be dedicated to recreational use;

(14) a geologic evaluation of the site, accompanied by drilling logs showing sufficient density of test holes and sufficient lithologic details to indicate that a suitable development site has been selected;

(15) description and evaluation of the relationship between proposed surface water development and ground water resources, or the converse, and the effects of each upon the other;

(16) if a ground water development, complete analyses of the hydrologic and hydraulic characteristics of the aquifer including, if necessary, subsurface data obtained from drilling test holes and test pumping;

(17) the engineering report, which shall be signed and sealed by a professional engineer registered in the State of Texas in accordance with the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a, and which report shall not be more than six months old. If the report is more than six months old, it shall be accompanied by a statement from the engineer that he has reviewed the project as originally prepared and finds that it is substantially current and correct in view of all existing circumstances. In such event, a detailed updated cost estimate shall be provided; and

(18) additional information or data which the executive administrator or development fund manager may require, including additional subsurface explorations prior to the submission of the application or as a condition precedent to final approval.

§363.56. Required Engineering Feasibility Data for Flood Control Projects. The applicant shall submit for approval four copies of an engineering feasibility report. Prior to submission of the report, the applicant's engineer shall have met with the engineer-

ing staff of the board to discuss the scope of the feasibility report. In the case of flood control projects, the report as presented in the application shall include the following information.

(1) If the loan is for the purpose of developing a floodplain management plan, the following information shall be submitted:

(A) a statement indicating the authority of the applicant to prepare a comprehensive floodplain management plan, and the applicant's legal authority, if any, to enforce such a plan;

(B) location and background history of the watershed or watersheds in the area. Maps and drawings of watersheds should be included. Information should be provided for the entire watershed drained by a river, creek, bayou, or other channels and their tributaries within the planning area.

(2) If the proposed loan is for structural or nonstructural flood control, the following information will be required:

(A) the name of the political subdivision and its principal officers;

(B) a citation of the law under which the political subdivision operates and was created;

(C) a description of the flood control measures for which the financial assistance will be used;

(D) the estimated total cost of the measures;

(E) the amount of state financial assistance requested;

(F) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(G) the plan for repaying the financial assistance;

(H) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest;

(I) the capacity of the watershed to accommodate stormwater runoff;

(J) the impact of the project on watershed capacity along the entire watershed and the degree to which that capacity was considered in planning the project;

(K) whether the project will increase or decrease the volume or rate of stormwater runoff into any channel in the watershed;

(L) the effect of the project on surface water elevations within the watershed and any downstream watershed;

(M) the relationship of the project to any floodplain management plan for the watershed;

(N) whether adequate consideration was given to the effects of the project with regard to erosion and sediment control;

(O) the feasibility of the project, including a description of all alternatives considered, evaluation of each alternative, and reasons for the selection of the proposed project. Nonstructural alternatives should be evaluated for their feasibility; and

(P) additional information on or data which the executive administrator or development fund manager may require.

§363.57. Required Engineering Feasibility Data for Sewer Related Projects. The applicant shall submit for approval four copies of an engineering feasibility report. Prior to submission of the report in the application, the applicant's engineer shall have met with the board's engineering staff to discuss the scope of the feasibility report. The report, as presented in the application, shall include the information regarding design criteria for sewerage systems listed under §317.1(b) of this title (relating to General Provisions) and the following general information:

(1) legal name of applicant;

(2) name and address of the project engineer;

(3) type of treatment plant being proposed. The selection of a treatment process must take into account the cost-effectiveness and environmental compatibility of various processes; and

(4) cost breakdown. A detailed cost estimate for all work shall be submitted, including operation and maintenance.

§363.58. Required Legal Data.

(a) The applicant shall submit a statement setting forth the existing or future need for the project, the probable benefits to the area to be served by the project, the steps previously taken or currently being taken to finance the project without state assistance, and the reasons why other financing is not available to defray the entire project cost.

(b) If a bond election is required by law to authorize the issuance of bonds to finance the project, such election should be held prior to consideration of the application by the board. Applicant shall provide the development fund manager with the election date and election results as to each proposition submitted.

(c) The applicant shall submit a certified copy of a resolution of the governing body of each participating political subdivision requesting financial assistance from the board, authorizing the submission of the application, designating the official representative for executing the application and appearance before the board, and containing a finding that the applicant cannot reasonably finance the project without assistance from the board in the amount requested. Additional evidence on inability to finance the project without state investment may also be required by the board.

(d) The applicant shall submit a copy of any actual or proposed contract under which any portion of the applicant's water supply is purchased or transported or under which sewer service is provided. Before a loan is closed, a certified copy of such contract shall be required.

(e) If financing of the project will require the sale of bonds to the board payable either wholly or in part from revenues of contracts with others, the applicant shall sub-

mit a copy of any actual or proposed contracts under which applicant's gross income is expected to accrue. Before a loan is closed, an applicant shall submit certified copies of such contracts to the development fund manager.

(f) The applicant shall submit a pro forma draft of an ordinance, resolution, or similar instrument to be adopted by the governing body authorizing the issuance of each of the bond issues described in §363.54(g) and (k) of this title (relating to Required Fiscal Data). When application for financial assistance which envisions the purchase of applicant's bonds by the board is made, such ordinance, resolution, or similar instrument shall contain, in addition to the usual provisions, sections providing:

(1) that a construction fund shall be created which shall be separate from all other funds of the political subdivision. The construction fund shall be established at an official depository of the political subdivision and all funds in the construction fund shall be secured in the manner provided by law for the security of county funds or city funds, as appropriate. If the political subdivision is not required by law to maintain its funds in an official depository, then it shall designate a depository with the approval of the development fund manager and shall maintain the construction fund in such depository and require that funds therein be secured in the manner provided by law for county funds. All proceeds from the sale of bonds to the board and all other proceeds acquired by the political subdivision to construct or acquire the project shall be placed in the construction fund. All proceeds in the construction fund shall be used for the sole purpose of constructing the project as approved by the board except as otherwise stated in these sections or approved by the board;

(2) that a final accounting be made to the board of the total cost of the project upon its completion. Such resolution or ordinance shall also provide that if the project be finally completed at a total cost less than the amount of available funds for constructing the project, or if the development fund manager disapproves construction of any portion of the project as not being in accordance with the plans and specifications, the participating political subdivision shall immediately, after filing the final accounting, return to the board the amount of any such excess and/or the cost as determined by the development fund manager relating to the parts of the project not constructed in accordance with the plans and specifications, to the nearest multiple of \$1,000 or \$5,000, depending upon the denomination of the bonds being sold. Thereupon, the board shall cancel and deliver to the participating political subdivision a like amount of the bonds of the participating political subdivision held by the board in inverse numerical order. Any remaining funds will be deposited in the interest and sinking fund for bonds

purchased by the board. Unless otherwise stated in the loan commitment, in determining the amount of available funds for constructing the project, the political subdivision shall account for all monies in the construction fund, including all loan funds extended by the board, all other funds available from the project as described in the project engineer's sufficiency of funds statement required for closing the board's loan, and all interest earned by the political subdivision on money in the construction fund. This requirement shall not be interpreted as prohibiting the board from enforcing such other rights as it may have under law;

(3) that an annual audit of the participating political subdivision, prepared by a certified public accountant or licensed public accountant, be provided to the development fund manager;

(4) that the participating political subdivision shall maintain adequate insurance coverage on the project in an amount adequate to protect the board's interest;

(5) that as built plans be provided to the board; and

(6) that the issuer will implement any water conservation program required by the board until all financial obligations to the state have been discharged.

(7) that the issuer covenants to abide by the board's rules and relevant state statutes, including the Texas Water Code, Chapters 15, 16, and 17.

(g) The applicant shall submit an affidavit executed by the official representative of the participating political subdivision stating that the facts contained in the application are true and correct to his best knowledge and belief.

(h) The applicant shall submit a copy of any existing proposed construction contract.

(i) All proposed contracts shall have provisions assuring compliance with the board's rules and all relevant statutes, including the Texas Water Code, Chapters 15, 16, and 17, as appropriate. Further, the contract shall provide that failure to construct the project according to the plans and specifications approved by the executive administrator, development fund manager, board, and/or the commission, as is appropriate, for any and all modifications, amendments, or changes to such engineering plans, regardless of the nature, character, or extent of such changes; failure to construct the project in accordance with sound engineering principles; or failure to comply with any term or terms of the construction contract, shall be considered by the development fund manager as grounds for refusal to give a certificate of final approval for any construction contract. Such contract shall also require the contractor to observe all rules of the board. The provisions of the contract shall constitute an agreement for the benefit of the board under principles applicable to third party beneficiary contracts; however, such provisions are not intended

nor shall they be in such form as to constitute an agreement for the benefit of any other third party or parties other than the board.

(2) The participating political subdivisions shall be represented by a registered professional engineer who shall inspect the project at each phase of construction to assure construction in substantial compliance with the plans and specifications and in accordance with sound engineering principles and the terms and provisions of the construction contracts.

(3) The applicant shall submit such other provisions as may be deemed necessary to provide the board and the participating political subdivision adequate control to ensure that materials furnished or work performed conform with the provisions of the construction contracts.

(i) The applicant shall submit copies of any proposed or existing contracts for consultant services necessary for construction of the proposed project and included as part of the total cost of the project.

(j) The applicant shall submit a certification by the designated representative of the participating political subdivision in a form acceptable to the board which warrants compliance by the participating political subdivision with all representations in the application, all laws of the State of Texas, and all rules and published policies of the board.

(k) If bonds to be sold to the board are revenue bonds secured by a subordinate lien, then a copy of the authorizing instrument of the governing body in the issuance of the prior lien bonds shall be furnished.

(l) The applicant shall submit a copy of any proposed or existing lease or other agreement transferring interests in any land acquired for the project.

(m) The applicant shall submit other information, plans, and specifications requested by the board or the executive administrator which are reasonably necessary for an adequate understanding of the project.

§363.59. *Required Water Conservation Plan.*

(a) The applicant, if not eligible for an exemption, shall submit for approval two copies of a water conservation plan. Prior to submission of the plan in the application, the applicant or his representative shall discuss the scope and content of the plan at a preapplication conference. At the applicant's request, and to the extent that personnel are available, the executive administrator may provide educational material and technical assistance in developing a comprehensive water conservation plan that is designed to meet existing and anticipated local needs and conditions. The executive administrator shall review all water conservation plans submitted as part of an application for financial assistance for a project and shall determine if the plans are adequate. The long-

term water conservation plan shall be consistent with the guidelines for water conservation planning available from the executive administrator. The plan shall serve as the basis for developing and implementing a conservation program. At a minimum, the plan shall consider, and as appropriate include, each of the elements in §363.52(b)(12) of this title (relating to Required General Information). Reasons for not including any of the elements stated in §363.52(b)(12) of this title (relating to Required General Information) shall be clearly stated. The plan shall effectively address the following:

- (1) need for and goals of a water conservation program;
- (2) methods to reduce water consumption;
- (3) methods to reduce the loss or waste of water;
- (4) methods to improve efficiency in use of water; and
- (5) methods to increase the recycling and reuse of water.

(b) The board may not require an applicant to provide a water conservation plan if the board determines an emergency exists, the amount of financial assistance to be provided is \$500,000 or less, or implementation of a water conservation program is not reasonably necessary to facilitate water conservation.

(1) An emergency exists when: (a) a public water system or wastewater system has already failed, causing the health and safety of the citizens served to be endangered; (b) sudden, unforeseen demands are placed on a water system or wastewater system (i.e., because of military operations or emergency population relocation); (c) a disaster has been declared by the governor or president; or (d) the Governor's Division of Emergency Management of the Texas Department of Public Safety has determined that an emergency exists. The board shall review an application for which an emergency is determined to exist six months after the board commits to financial assistance, and also at the time of any extensions of the loan commitment. If the board finds that the emergency no longer exists, it may then require submission of a water conservation plan satisfactory to the board before making any further disbursements on the commitments.

(2) Submission of a plan is not necessary to facilitate water conservation if the following conditions are met:

(A) the average daily per capita water use, based on water use for the previous 36-month period, beginning with the last whole month for which data are available, is less than 10% above the average daily per capita water use of five similar utilities in the surrounding area; is below 150 gallons per capita per day; and is not projected to increase above 150 gallons per capita per day during the payback period; or

(B) If an applicant already has in place an ongoing water conservation pro-

gram which includes information and education, a conservation-oriented water rate structure, a water-saving plumbing code, a leak detection and repair program, and a drought contingency response program and necessary implementing regulations.

§363.60. *Return of Insufficient Application.* The development fund manager shall return any application not in substantial compliance with these sections.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603284 Suzanne Schwartz
General Counsel
Texas Water Development Board

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 463-7850.

★ ★ ★

Prerequisites to Release of State Funds

★31 TAC §§363.81-363.85

The new sections are proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

§363.81. *Engineering Design Data Prerequisites.*

(a) An applicant seeking financial assistance for flood control, water, and storage projects, pursuant to the Water Development Program, the Water, Wastewater, and Storage Facilities Acquisition Program, the water loan assistance fund, or the Flood Control Program shall submit for development fund manager approval three copies of plans, specifications, and an engineering report on the project, which data shall be as detailed as would be required for submission to contractors bidding on the work, and which shall include, as appropriate:

(1) analyses of the quality and quantity of water to be used. If a dam and reservoir project is proposed, complete hydrology, flood routing, and storage capacities and corresponding elevations shall be provided;

(2) details of the hydraulic gradient calculations for pipelines and/or open channels based on maximum flow conditions;

(3) if a dam and reservoir project is involved:

(A) a topographic map of the dam site with contour intervals not exceeding five feet. A plan of the dam shall be superimposed on this map showing the location of spillways, outlet conduit, cut-off walls, etc. If an existing map is used, the source and date of such map shall be given;

(B) a geologic evaluation of the project area relating the local geologic setting to the regional geologic setting, accompanied by drilling logs showing sufficient density of test holes and sufficient lithologic details to verify that a suitable development site has been selected. A geologic profile of the dam site taken on the axis of the dam and a profile of the spillway along its axis shall be provided. The profile shall also show the location of the conduit, spillway, etc. Core drill holes shall be located and spaced to show geologic conditions at the site and shall be of sufficient depth to determine foundation conditions. Geologic cross sections of the reservoir area shall also be shown on a suitable map, including descriptions that represent the local geologic conditions. Logs of the core drill holes and descriptions of the geologic sections shall be prepared by a professional geologist. All cores and bag samples recovered shall be available for examination by the staff of the executive administrator in proper condition and properly labeled. This evaluation should include a survey of any oil and gas wells to determine the possibility of contamination of the reservoir due to mineral wastes or to inadequately plugged wells;

(C) a soils report giving the recommended embankment slopes, berms, etc.; location of types of soil in the embankment (designate all borrow areas on construction plans related to the embankment zones of the dam); location of core trench and slope of core trench; stability analyses of the embankments; and seepage studies and recommended drainage systems for the embankment. Data from all soil tests performed should be included. The above information shall also be shown and correctly plotted on the plans, on both plan view and elevation. A soils engineer assisted by a geologist, when necessary, shall be responsible for the planning and supervision of field studies;

(D) cross sections of the dam embankment and spillway sections at the maximum width section, showing complete details and dimensions;

(E) complete details on hydraulic design of spillway structure. Unless otherwise justified and approved by the commission, the combined spillway capacity will be large enough to pass and properly still the probable maximum flood without overtopping the dam;

(4) cross-sections of all structures in sufficient number and detail to adequately define all features of the structure, and to permit complete hydraulic and structural analyses; and

(5) if a pipeline is proposed, the location shown by stationing and bearing. Profiles of proposed pipeline routes will also be required.

(b) An applicant seeking financial assistance for wastewater projects pursuant to the Water Quality Enhancement Program, the Water, Wastewater, and Storage Acquisition Program, and the Water Loan Assis-

tance Program shall submit for approval to the executive administrator three copies of plans and specifications and an engineering design report, each of which shall conform to the requirements regarding design criteria for sewage systems in §317.1(b) of this title (relating to General Provisions); and shall be as detailed as would be required for submission to contractors bidding on the work. The commission shall also review and approve all plans and specifications for wastewater treatment plants. In addition, the applicant shall submit for approval a draft copy of the construction contract bid document for each construction contract to be let and a draft operation and maintenance manual for the sewerage system. The final operation and maintenance manual shall be submitted for approval by the time construction is 90% complete. If a federal grant or loan is involved, the applicant may also be required to submit additional documents to satisfy the requirements of the Environmental Protection Agency's Construction Grant Program, Public Law 92-500, Title II.

(c) All applicants shall comply with the following.

(1) The plans and the engineer report shall be signed and sealed by a professional engineer registered in the State of Texas in accordance with the Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a. The report shall not be dated more than six months prior to filing with the executive administrator or development fund manager.

(2) Maps prepared and submitted in conjunction with the project shall measure 22 or 24 inches by 36 inches outside, with a two-inch binding edge at the left; other margins shall be not less than ½-inch wide.

(3) Each engineering sheet, map, etc., shall bear a title in the lower right-hand corner showing the name and address of the owner, the county, the sheet number, total number of sheets, a description of details, and shall bear the seal and signature of a registered professional engineer.

(4) All specifications for materials and workmanship shall conform to such specifications as may be promulgated or recognized by the board.

(5) The applicant shall provide evidence that requirements and regulations of all state and federal agencies having jurisdiction have been met.

(d) The board, executive administrator, or development fund manager may require the submission of additional engineering data and information, if deemed necessary.

§363.82. *Land and Right-of-Way Acquisition Procedures Prerequisites.*

(a) A general outline of practices, procedures, and policies for land acquisition, including procedures for acquisition of rights-of-way, easements, and relocations, both voluntary and involuntary, shall be presented for the executive administrator or development fund manager's approval.

(b) The board may require procedures for control over project funds during construction to assure disbursement within approved appraisals and estimates or as may be required by judicial decree. In such event, the procedures will require certification to the executive administrator or development fund manager that individual acquisitions or relocations are within the appraised value or engineer's estimate prior to request for final release of funds for such acquisition or relocation. The procedures should make provision for submission to the executive administrator or development fund manager for approval of individual tract appraisal reports prior to contact with the owner of the tracts to be acquired.

(c) In the event of necessity for release of funds in excess of the appraised value or engineer's estimate, the board may require that requests be accompanied by a satisfactory explanation and justification of the participating political subdivision, together with evidence of the extent, if any, that such excess will affect the estimated total project cost.

(d) The applicant should include, within the general outline of the procedures, the qualifications of the personnel proposed for appraisal work, and the qualifications of land agents.

(e) The foregoing is not intended to be inclusive of all of the procedures which may be deemed necessary in the judgment of the board for an effective land acquisition and relocation program or which may be required for proper control of the disbursement of funds, but rather are intended as illustrative of the areas to which such procedures will have application. Provision for amendment of the initially approved procedures in the event of an anticipated increase in total estimated project costs will be required.

§363.83. *Commission Permits and Resolution Prerequisite.*

(a) Prior to the release of state funds for any financial assistance, the applicant must obtain all required permits from the commission to appropriate, impound, divert, use, or transport state waters, or to construct wastewater facilities as may be appropriate under the circumstances, or any other permit or approval that may be required by the commission.

(b) In addition to furnishing the board with certified copies of appropriate permits, the applicant shall furnish the board a resolution adopted by the commission certifying that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water the project will provide and/or that an applicant proposing underground water development has the right to use water that the project will provide.

(c) For a water or storage facilities acquisition project, the board may, at its dis-

cretion, become a coapplicant for a commission permit.

§363.84. *Legal and Fiscal Document Prerequisites.* The documents which shall be required prior to the release of state funds shall include the following as appropriate:

(1) a statement as to sufficiency of funds, including proceeds to be derived from sale of bonds to the board and to others and any other available funds to complete the project;

(2) in those projects involving the sale of bonds to the board or to others, a binder of a corporate surety company, to execute good and sufficient payment and performance bonds, each in the full amount of the contract price. Such surety company must be authorized to do business in Texas in accordance with Texas Civil Statutes, Article 5160. The board may, at its discretion, waive this requirement for a binder if the chief executive officer of the participating political subdivision and the project engineer certify to the board that the contractor shall not be notified to proceed until the performance bond and payment bond have been executed and filed and the participating political subdivision demonstrates to the board's satisfaction it is financially capable of meeting its bond requirements without income which may be generated from the improvements to be constructed with the bond proceeds;

(3) a certified copy of an escrow agreement providing that funds for construction costs shall be disbursed only in accordance with the provisions of the Texas Water Code. This escrow agreement may be waived if the bond proceedings contain a covenant that construction funds will be disbursed only in accordance with the provisions of the Texas Water Code, and if the applicant demonstrates to the board's satisfaction that it is financially capable of meeting its bond requirements without income which may be generated from the improvements to be constructed with the bond proceeds;

(4) a certified copy of the bond transcript, including the ordinance, resolution, or similar instrument adopted by the governing body authorizing issuance of bonds sold to the board containing the covenants as agreed upon or as may be required in the board's resolution. The board may require that bond resolutions and covenants reflect provisions consistent with the executive administrator's or development fund manager's approved land acquisition procedures framed in the application and supporting documents;

(5) if not combined in the preceding document, a certified copy of the ordinance, resolution, or similar instrument adopted by the governing body authorizing issuance of any other bonds to finance the balance of the cost of the project;

(6) bonds delivered in proper form to the office of the state treasurer, Austin, or other place specified by the development

fund manager, accompanied by written instructions for delivering the proceeds of the bonds, i.e., written instructions as to whom the state warrant shall be made payable and to whom it shall be delivered;

(7) a contingently executed copy of each proposed construction contract to be entered into by the participating political subdivision for construction of the projects containing the information required in §363.58(h) of this title (relating to Required Legal Data);

(8) a certified copy of each contract relating to the sale of water by the participating political subdivision;

(9) a certified copy of each contract relating to the purchase or transport of water to the participating political subdivision;

(10) a proposed act of assurance in a form acceptable to the board to be executed by the contractor which shall warrant compliance by the contractor with all laws of the State of Texas and all rules and published policies of the board;

(11) a certified copy of appropriate commission permits for those projects involving the appropriation, impoundment, use, diversion, or transportation of state water or for discharge of waste into or adjacent to water in the state;

(12) for a wastewater project, evidence of commission approval of plans and specifications;

(13) any further proposed leases or other agreements transferring any interest in land acquired for the project subsequent to those furnished under §363.58(1) of this title (relating to Required Legal Data);

(14) such other instruments or documents as the board may determine to be in the public interest and containing such terms and conditions as the resolution of conditional approval may require; and

(15) approval of project plans and specifications. Water projects funded by the water loan assistance fund or water development fund, water or storage facilities acquisition projects, or structural flood control projects shall not be eligible for state participation in the event engineering plans and specifications have not been approved by the development fund manager or executive administrator, as appropriate, prior to closing the loan. A water quality enhancement project shall not be eligible for state participation in the event engineering plans and specifications have not been approved by the executive administrator and/or commission, as is appropriate, prior to closing the loan.

§363.85. Water Conservation Program Prerequisites.

(a) Prior to the release of funds, two copies of the applicant's water conservation program, including documentation of local adoption, shall be submitted to and approved by the executive administrator. To the extent personnel are available, the executive administrator may provide technical assistance to an applicant in developing a comprehensive water conservation program

that is consistent with the approved conservation plan. The water conservation program shall be developed according to criteria and guidelines for water conservation planning available from the executive administrator. The program shall consist of a long-term water conservation program and an emergency water demand management program.

(b) The long-term water conservation program may include:

(1) education and information programs;

(2) plumbing codes or ordinances for water conserving devices in new construction;

(3) retrofit programs to improve water-use efficiency in existing buildings;

(4) conservation-oriented water rate structures;

(5) universal metering and meter repair and replacement;

(6) leak detection and repair;

(7) water recycling and reuse;

(8) water conserving landscaping; and

(9) means of implementation and enforcement.

(c) The emergency water demand management program shall, at a minimum, include drought contingency plans, and may include:

(1) education and information programs;

(2) procedures for program initiation and termination, and emergency response; and

(3) means of implementation and enforcement.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603285

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption:
May 12, 1986

For further information, please call
(512) 483-7850.

★ ★ ★

**Water, Wastewater, and Storage
Facilities Acquisition Program**

★ 31 TAC §363.111, §363.112

The new sections are proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

§363.111. Master Agreement. The text of the master agreement may encompass the following provisions, where applicable:

(1) with regard to project facilities, including storage, diversion, treatment, wastewater treatment, transportation, and collection facilities:

(A) the formula to be used in determining the cost to the board of acquiring its portion of the project;

(B) procedures by which development funds shall be made available for payment of the board's portion of the project. See §363.125 of this title (relating to Disbursement of State Funds);

(C) the character of the interest which the board shall acquire in the facilities, which will customarily be an undivided interest;

(D) for a federal project, whether the board shall contract on behalf of the participating political subdivisions for the interests to be acquired by them and manner of payment therefor;

(2) contract provisions consistent with the development fund manager's approved land (site) acquisition procedures framed in the participating political subdivision's application and supporting documents;

(3) for a project not constructed by the federal government, the duties and functions of the participating political subdivision for the construction of the project, including the awarding of the construction contract, supervision of construction, and manner of payment to the contractor;

(4) provisions governing lease or rental of lands in which the board has an interest, including the party or parties which shall have the responsibility for such leasing and rental; and the basis of reimbursement to the board for revenues derived therefrom. Such provisions shall include a stipulation that all lease, rental, and other transfers be approved by the development fund manager;

(5) the governmental entity or entities which shall provide for the development and operation of recreational facilities at a reservoir project, and any associated costs;

(6) the governmental entity or entities which shall operate and maintain the board's facilities and the basis of allocation of costs for operation and maintenance between the board and others having an interest in the same facilities;

(7) procedures governing emergency releases of water stored in storage facilities acquired by the board and under the board's control;

(8) provisions governing sales of water by participating political subdivisions to customers who were not foreseen at the time board participation in the project was approved, and the basis of allocation of revenues from such customers between the board and the participating political subdivisions;

(9) requirement that participating political subdivisions shall indemnify and hold harmless the state against any and all claims and causes of action arising from the construction, acquisition, operation, and

maintenance of the facilities;

(10) provisions for notice to the participating political subdivisions, storage clients, water clients, water treatment clients, and wastewater treatment clients prior to any sale, transfer, or lease of board-owned facilities or the sale of the use of water, water treatment capacity, wastewater treatment capacity therefrom, and recognizing the preferential right of participating political subdivisions to purchase or lease acquisition facilities, or to purchase the right to use water in storage, or capacity in water and wastewater treatment from the board upon a showing of need;

(11) provision that the board will not compete with participating political subdivisions in the sale of water or the treatment of water or wastewater when such competition will jeopardize the ability of the participating political subdivisions to meet financial obligations for their own water supply and/or water and wastewater treatment projects;

(12) requirement that the participating political subdivision supply the development fund manager with certified copies of all minutes of official actions of the participating political subdivision during the period when construction of the project is in progress and of subsequent action significantly affecting the project;

(13) provisions relating to the interest to be acquired in lands necessary for, or ancillary to, the project;

(14) covenants by the participating political subdivision with respect to inspection standards and techniques, award of contracts, compliance with appropriate statutes and indentures, fund disbursement procedures, recreational development and administration, operation and maintenance procedures, and other provisions appropriate to the master agreement;

(15) provision for delivery to the development fund manager of as built plans of the project upon completion;

(16) a projected schedule for purchase of the state's interest in the project, where specifically required by the board;

(17) a requirement that the participating political subdivision and any political subdivisions to which water or sewer service is provided by the project implement a water conservation plan and program in accordance with this chapter, unless qualifying for an exemption; and

(18) any other provisions which may be deemed appropriate and needed by the executive administrator or the development fund manager.

§363.112. Other Contracts. After the master agreement has been executed, the executive administrator may proceed to negotiate and the board may approve entry into any other contract or contracts necessary to implement the master agreement, including contracts with federal agencies.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603287

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 463-7850.

★ ★ ★

Application to Acquire State Interests or to Purchase Water, Water Treatment, or Wastewater Treatment

★ 31 TAC §§363.161-363.165

The new sections are proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

§363.161. Requirements of Application.

A prospective storage client, water client, water treatment client, or wastewater treatment client shall make application to the board for the interest it proposes to acquire. The application, together with supplements and exhibits, shall contain the following information in the order listed, as applicable:

(1) name of the applicant and, if a governmental entity, the authority of law under which it was created and operates and date of creation or incorporation;

(2) name, title, and address of official correspondent or representative;

(3) if application is by other than an individual, names and titles of principal officers including the managing official;

(4) name and address of project engineer, if appropriate;

(5) name and address of legal counsel;

(6) statement of project engineer's estimate of cost, itemized as to major facilities or items needed to make use of the facilities to be acquired or used, or of the water to be used;

(7) brief description of the use to be made of the facilities and the places and purposes for which water developed therefrom is to be used or the places or population which the water or wastewater treatment will serve; or a brief description of the use to be made of water diverted from state-owned storage facilities;

(8) if the water to be developed or purchased from the storage facilities is not to be used by applicant, or if the treatment capacity will not be used by applicant, the following information:

(A) the names or classes of parties to be served by applicant;

(B) the charges to be made for such service;

(C) the basis used in determining such charges;

(D) data showing engineering and economic feasibility of furnishing such services;

(9) for water treatment of wastewater facilities, a brief description and the proposed use of the facilities to be acquired including:

(A) line and plant capacities available and portion to be acquired;

(B) areas and population to be served; and

(C) proposed plan for acquiring plant site;

(10) a copy of the permit application submitted to the commission;

(11) proposed transfer agreement covering the points prescribed in §363.165 of this title (relating to Negotiation of Contracts), as applicable;

(12) information concerning the applicant's water conservation plan, as required in §363.52(b)(12) and (13) of this title (relating to Required General Information).

(13) such additional information as may be required by the board which is reasonably necessary for an adequate understanding of the project.

§363.162. Notice to Participating Political Subdivision and Others. Upon receipt of an application by a prospective water, storage, wastewater, or water treatment client, the board will send notice of its receipt by regular United States mail to all participating political subdivisions, and any water, storage, wastewater, or water treatment clients in the project in question.

§363.163. Consideration by Board. The application shall be scheduled on the board's agenda, and representatives of the prospective client, the participating political subdivisions, other clients in the project, and other interested parties shall be notified of the time the presentation of the application may be made to the board. Consideration of the application may be continued from time to time and from place to place until the board has obtained the information deemed necessary in making the required findings. The board shall approve an application only if the entity has enacted a water conservation plan and program in accordance with this chapter, unless qualifying for an exemption.

§363.164. Resolution Authorizing Transfer.

If the board approves the application, a transfer resolution will be adopted which shall prescribe the terms and conditions necessary for the sale, transfer, or lease.

§363.165. Negotiation of Contracts.

(a) Before the board's adoption of the transfer resolution, the executive administrator shall negotiate a transfer agreement with the water, storage, wastewater, or water treatment client to effectuate the sale, transfer, or lease of board-owned interests. The

client may not use the project facilities or any water stored in storage facilities until it has been issued the necessary permits by the commission. The transfer agreement shall cover the following points as applicable:

(1) interest transferred:

(A) the character of the interest which is conveyed in the board-owned facilities or in the use of water stored therein;

(B) the formula to be used in computing the price to be paid for the facilities to be acquired, including diversion facilities, or for the purchase of the right to use the facilities or water stored in storage facilities, which formula shall be consistent with the requirements of the Texas Water Code, §16.186 and §16.187;

(2) provisions governing lease or rental of facilities or facilities lands in which the state has an interest and the basis of reimbursement to the board for revenues derived therefrom;

(3) the governmental entity or entities which shall provide for the development and operation of recreational facilities at any reservoir and the basis of allocation of costs for operation and maintenance between the board and others owning facilities in the same reservoir;

(4) procedures governing emergency releases of unappropriated public waters stored in storage facilities owned by the board and under the board's control;

(5) requirement that water, storage, water treatment, or wastewater clients shall indemnify and hold harmless the state against any and all claims and causes of action arising from the construction, acquisition, operation, and maintenance of the project;

(6) provision for notice to participating political subdivisions and clients prior to any sale, transfer, or lease of board-owned facilities or the sale of the use of the facility's capacity or water therefrom, and recognizing the preferential right of participating political subdivisions and other political subdivisions to purchase or lease such or similar facilities or to purchase the right of use of the facility's capacity or water in storage from the board;

(7) provisions that the transfer agreement and any other contracts executed with the board pursuant thereto shall be subject to termination by the board upon the failure of a client to make continued payment of the obligations assumed under the contract with the board or upon other breach of the contract. The transfer agreement or other contracts executed with the board pursuant thereto may also be subject to termination by the board if the commission determines that the client has failed to comply with the terms or conditions of the applicable permit. The board shall provide the water client reasonable notice of the board's consideration of termination of the water supply contract. This provision shall not be applicable to transfer agreement by which the board sells an ownership interest in a storage facility;

(8) other provisions appropriate to the subject of the transfer agreement, including provisions setting standards for operation and maintenance of the project.

(b) The attorney general of Texas shall approve as to legality any contract authorized under this subchapter.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603288 Suzanne Schwartz
General Counsel
Texas Water Development Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 463-7850.

★ ★ ★

Postconstruction Responsibilities Compliance Procedure

★ 31 TAC §363.181

The new section is proposed under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

§363.181. General Responsibilities. After the satisfactory completion of the project, the participating political subdivisions shall be held accountable by the board for the continued validity of all representations and assurances made to the board. Continuing cooperation with the board is expected. To facilitate such cooperation and to enable the board to protect the state's monetary investment and the public interest, the following provisions shall be observed.

(1) Operation and maintenance requirements. The executive administrator is authorized to inspect the project and the records of operation and maintenance of the project at any time. If it is found that the project is being improperly or inadequately operated and maintained to the extent that the project purposes are not being properly fulfilled or that integrity of the state's investment is being endangered, the executive administrator shall require the participating political subdivisions to take corrective action.

(2) Financial requirements. The development fund manager may request certified copies of all minutes, operating budgets, monthly operating statements, contracts, leases, deeds, audit reports, and other documents concerning the operation and maintenance of the project in addition to the requirements of the covenants of the bond indenture and/or the master agreement. The financial assistance provided by the board is based on the project's economic feasibility, and the board shares the participating political subdivision's desire to maintain this

feasibility in the project's operation and maintenance at all times. The development fund manager shall periodically inspect, analyze, and monitor the project's revenues, operation, and any other information the board requires in order to perform its duties and to protect the public interest.

(3) Water conservation reporting. Applicants with required water conservation programs shall report annually to the executive administrator on the implementation, status, and effectiveness of the water conservation programs until all of their financial obligations to the state have been discharged. The executive administrator may require a political subdivision which is not effectively implementing its conservation program to take corrective action. The executive administrator may refer further noncompliance by a political subdivision to the attorney general, or may take other corrective actions deemed appropriate to assure compliance.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603289 Suzanne Schwartz
General Counsel
Texas Water Development Board

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 463-7850.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 14. County Indigent Health Care Program

(Editor's note. This is the common preamble for adopted sections beginning on page 1747.)

The Texas Department of Human Services (DHS) adopts new §§14.1, 14.2, 14.101-14.109, 14.201-14.205, 14.301, and 14.302. New §§14.1, 14.2, 14.101-14.104, 14.108, 14.109, and 14.201-14.205, are adopted with changes to the proposed text published in the January 21, 1986, issue of the *Texas Register* (11 TexReg 386). New §§14.105-14.107, 14.301, and 14.302 are adopted without changes to the proposed text and will not be republished.

Sections governing the County Indigent Health Care Program are adopted as a result of the Indigent Health Care and Treatment Act legislation (Senate Bill 1) passed by the 69th Legislature at the first called session. The Act requires each county without a public facility legally obligated to serve the entire county to administer a County Indigent Health Care

Program that serves all or that portion of the county not served by a public facility. The county's program must provide mandatory health care services to eligible county residents who do not live in a county area served by a public facility. The Act also requires DHS to establish rules based on the Aid to Families with Dependent Children (AFDC) and the Medicaid Programs. The Act also provides that DHS can simplify the AFDC and Medicaid standards and procedures. This chapter contains simplified AFDC and Medicaid policies developed by DHS in association with a 19-member advisory committee. The advisory committee consists of county officials and hospital administrators.

These new sections establish minimum program requirements for counties wanting state assistance. Counties may claim state assistance only for expenditures based on these sections. Counties may, however, develop program policies that are less restrictive than the minimum requirements contained in these sections. Senate Bill 1 also requires that public hospitals consider certain sections as minimal requirements.

The DHS held a public hearing on the sections on February 12, 1986. Ten commenters submitted written comments, and five commenters presented oral comments at the public hearing. Commenters included the Texas Hospital Association, the Texas Association of Community Health Centers, the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Health, community mental health organizations, several physicians, an attorney representing county judges and commissioners, and other interested individuals. The commenters were neither for nor against the sections as proposed, but offered suggestions concerning specific language and requirements.

The DHS presented all comments to the advisory committee. The following responses are the result of a joint review of the comments by the committee members and DHS staff. Commenters presented the following seven major issues

Three commenters expressed concern about program complexity. They are concerned that counties must develop considerable expertise to operate a program consistent with department sections, and think the language used in the sections is difficult to understand. The DHS acknowledges that counties will need to develop some expertise to operate the program. The Indigent Health Care and Treatment Act presents a decentralized approach to delivering health care, and makes counties responsible for managing indigent care programs that meet minimum statutory requirements. The Act requires that sections be consistent with those used in the AFDC and Medicaid programs. The department's authority to simplify the AFDC and Medicaid rules is limited because simplified rules may not

increase the program's restrictiveness. Considering these requirements, DHS and the advisory committee made every effort to develop workable sections. These major AFDC policies were not included in the county program sections for simplification purposes: retrospective budgeting and monthly reporting, the first two of the three AFDC income eligibility tests, and the complex policies related to the \$30 and 1/3 income disregard. Many other policies were also simplified, and the verification and documentation procedures are considerably more relaxed than those used in the AFDC program. The DHS believes that further simplification of the eligibility standards, and the application, documentation, and verification requirements would be detrimental to counties and contravene the intent of the Act. The Act itself contains very specific requirements for the application, the application process, provider procedures, eligibility for state assistance, and limitations to county liability.

The sections follow a specific format and language style consistent with *Texas Register* procedures. DHS does not intend for counties to use the sections, as published, to operate their programs. To assist counties, DHS has developed a handbook that includes the policy (rules) and provides additional information and explanations. The handbook, which will be released in April, is designed to assist comprehension and use.

To address implementation concerns, DHS plans to offer technical assistance to counties. Two series of workshops are being planned: one on county program development and management, and the other on eligibility determination.

The DHS staff also plan to offer consultation to counties this summer as they begin to implement their programs.

Three commenters took exception to using the Medicaid prevailing rate as the payment standard for physician, lab, and x-ray services. One commenter expressed concern about the availability of prevailing rate information. These commenters think the prevailing rates favor urban providers over the rural, that this payment level discourages provider participation in the program, and that the payment standard should be consistent with the service charge paid by private patients.

The Act requires that medical services definitions and payment standards be based on the Medicaid Program. Medicaid payment procedures are complex and their application requires sophisticated computer technology that counties cannot afford to buy. Under the Act, the payment standard serves to define the amount a county can credit toward its 10% general revenue tax levy and limits a county's payment liability. Counties can choose, however, to pay a different rate. DHS staff and the advisory committee discussed the payment standards at several

meetings in an effort to develop Medicaid-based standards that counties could use.

After further research into the payment standard issue, DHS believes the best and simplest standard for physician reimbursement is the average Medicaid payment for a procedure. Use of the average Medicaid payment as the standard does not favor a physician because of location or specialty. DHS is developing a table of the most common procedures paid for by the Medicaid Program and the average Medicaid payment for the procedure. This table, containing approximately 90% of the procedures paid for by the Medicaid Program, will be available as a handbook appendix. For the remaining procedures, DHS believes counties should have the option of paying either the amount billed, if the physician certifies in writing that this amount is consistent with the amount billed all other patients for the service, or the average Medicaid payment amount. Counties may contact DHS for average payment information for uncommon procedures, since it is not practical to publish a document of over 24,000 procedures that are seldom performed. DHS also recommends using the average Medicaid payment as the standard for lab and x-ray services. A table of the payment amounts for these services is also being prepared for the handbook. The average Medicaid payment amount may be less than the payment a provider receives from a private patient; however, it is the most equitable standard DHS can establish that is simple enough for counties to use. It also meets the directive for a uniform Medicaid-based standard. Sections 14.1, 14.203, and 14.204 are revised to establish these payment standards and to delete reference to the prevailing rate.

Four commenters requested that the medical services definitions be changed or expanded for psychiatric services, alcoholism and drug treatment, and preventive medical care. They are concerned that the service definitions discourage community care for the mentally ill, and that the population served by the program is likely to have a high need for alcoholism and drug treatment. One commenter pointed out that preventive health care is cost effective on a long-term basis, and that many counties now support preventive health care initiatives. DHS recognizes the validity of these concerns.

The Act establishes the minimal mandatory services that must be offered. Counties may choose to provide additional services. The Medicaid program covers some psychiatric, alcoholism, and drug treatment services when treatment is medically necessary as a physician service or an in-patient hospital service. DHS has clarified the sections to reflect these special situations. The mandatory services include physician, prescribed drug, family planning, and outpatient services which may have some preventive health components. Counties may choose to provide

preventive care services, but these services are not mandated by the Act. Section 14.202 is revised to expand the services identified.

Two commenters expressed concern that billing disputes between counties and providers are likely. They requested the department to establish sections for resolving these disputes to avoid costly litigation. DHS believes the intent of the Act is for counties to operate locally controlled programs. DHS sections simply establish the framework for the programs. DHS lacks the statutory authority to develop and enforce a bill arbitration process and the funds to administer such a process. If DHS assumed this responsibility, it could result in the creation of more policies that would further increase program complexity. The Act gives counties authority to establish contractual agreements with providers that can include procedures for resolving disputes. Sound contracts, developed by counties, should reduce the potential for disputes without the need for additional DHS sections.

Several commenters were concerned about the impact of county payment errors on county eligibility for state assistance. They requested DHS to establish sections to exempt a certain level of county errors from the calculation of the 10% spending level. The DHS does not believe that making this change is justified or that DHS has the authority to establish an error rate. DHS must determine county eligibility for state assistance. Payment errors found will not be a creditable county expenditure. The advisory committee objected to establishing an error rate tolerance level because it does not encourage counties to use good case work procedures, and the need is not proven.

Several commenters requested that DHS establish sections for public hospitals to assist them in operating their indigent health care programs. The Act requires public hospitals to use certain sections of the rules DHS establishes for counties; however, there are no rules exclusively for public hospitals. The department's rule-making authority is limited under the Act to establishing policies that counties may use in the administration of their program. Therefore, DHS cannot take the liberty of creating sections for public hospitals.

One commenter noted that the sections do not fully address the problems of migrant workers and their families, and suggested revisions based on Food Stamp Program policy. These problems include difficulty in establishing residency and in budgeting migrant income. DHS has based the sections on AFDC and Medicaid policy and does not have the authority to make changes in statutory requirements. Training materials, however, will include guidelines and suggested procedures for handling some of the special problems of migrants.

Commenters addressed many other issues. DHS incorporated the following comments into the adopted sections.

A commenter requested a definition of a public hospital in §14.1(a). DHS added this definition. A commenter requested that the requirements in §14.1(c) be rearranged chronologically. DHS rearranged the requirements as requested. A commenter requested that §14.1(q) and (r) be reversed. DHS changed the order of these subsections as requested. A commenter requested deletion of a provision in proposed §14.1(d)(1)(B) prohibiting a county from carrying a bill over from one fiscal year to another. DHS deleted this provision in adopted §14.1(e)(1)(B).

A commenter requested a definition of the term "immediately" and a clarification regarding the method of notification in proposed §14.1(d)(2). DHS deleted the term "immediately" and added a requirement for written notification in adopted §14.1(e)(2). A commenter requested deletion of the requirement in §14.2(e) that entities establish a methodology for providing and paying for services pending resolution of a residency dispute. DHS deleted this provision from subsection (e). Services, however, must be provided pending the resolution of the residency dispute. A commenter suggested that in §14.101(b) DHS needs to clarify that providing an application form means to give or mail the application form. DHS substituted "mails or gives" in place of "provide."

A commenter suggested that §14.101 is inconsistent with §3.05 of the Indigent Health Care and Treatment Act regarding the requirements for determining eligibility. The Act requires counties to determine eligibility within 14 days of notification and any available information, while §14.101 stated that counties determine eligibility within 14 days of receipt of a completed application. DHS changed §14.205(b)(2)(B) regarding determining eligibility for emergency services to be consistent with §3.05 of the Act. A commenter suggested that §14.102(a) be restructured for clarity and that the intent of the provision in §14.102(c) regarding migrant and seasonal workers be clarified. DHS restructured and reworded the provisions in §14.102(a) regarding residence. Subsection (c) of §14.102 was deleted.

A commenter requested that in §14.201(2)(D), the words "by a licensed hospital" be substituted for "in a licensed hospital." DHS made this change to indicate that hospital outpatient services may be provided at a facility apart from the main hospital complex. This is not intended to broaden the scope of services public hospitals must provide under the Act. A commenter requested that §14.201(3) and (5) be revised to incorporate medical necessity for the services. Both physician and skilled nursing facility services must be medically necessary, so DHS made this addition to the language.

A commenter requested deletion of the last sentence in §14.201(6) about Texas having no rural health care clinics, because it does not add meaning to the section. DHS agrees and deleted the wording. A commenter suggested deleting the reference to §14.201 in §14.202(a) because it may be confusing. DHS agrees and deleted the reference.

A commenter requested a clarification of §14.202(b)(4) prohibiting services provided by ineligible or suspended providers. DHS determined that this provision is not relevant to the County Indigent Health Care Program and deleted paragraph (4). Subsequent paragraphs in subsection (b) were renumbered. A commenter suggested amending proposed §14.202(b)(6) to require bills to be submitted 90 days from the date of service or discharge. DHS changed paragraph (5) in adopted §14.202(b) to require claims to be submitted 90 days from the date of service or 90 days from the date of eligibility, if the patient is eligible in one or more of the three months prior to the month of application, to cover services provided during a prior period of eligibility. Billing from the date of discharge was not incorporated because it is inconsistent with normal billing practices.

A commenter requested a change to §14.204(a)(2) requiring a hospital to certify its compliance with its Hill-Burton obligation. DHS changed §14.204(a)(2) to give counties the authority to apply this requirement if they choose to do so. Several commenters stated that the term "state fiscal year" in §14.204(c)(1) and (2) be changed to "county fiscal year" to comply with the Act. DHS made this change as requested.

A commenter requested that §14.204(c)(4) be reworded to clarify a county's responsibility once 10% of the general revenue tax levy is expended. DHS rewrote paragraph (4) to clarify the provision. A commenter suggested that the term "mandatory provider" in §14.205 be changed to "mandated provider" to be consistent with the Act, and that mandated provider be defined. DHS made the changes requested.

DHS did not incorporate the following comments for the reasons given. A commenter stated that the sections should prohibit use of recipients' names on bills to ensure confidentiality. DHS did not make changes based on this comment because both providers and the county are required to respect a recipient's right to confidentiality. Providers have professional confidentiality standards, and §14.302 establishes a county requirement for confidentiality. Use of the recipient's name helps to ensure correct billing and establishes a clearer audit trail.

A commenter suggested creation of a DHS review and enforcement provision to ensure that counties provide required medical care. DHS does not have enforce-

ment authority under the Act and cannot create the provision requested.

A commenter suggested requiring counties to provide recipients with ID cards indicating program eligibility. DHS believes the intent of the Act is to give counties considerable latitude in the day-to-day operation of their program. There are numerous approaches counties may take to indicate recipient eligibility. Some may choose to provide updated lists to mandatory providers; others may choose to give an eligibility letter or card to the recipient; and some may require providers to contact the county for verification of eligibility. DHS and the advisory committee agree that counties should handle this issue in the way they think is most efficient and cost effective.

A commenter suggested that proposed §14.1(d), (f), and (g) be amended to require notification to providers regarding expenditure levels and the state assistance fund levels. This comment was not incorporated because it is not feasible for DHS to know all participating providers and to notify them. Providers who enter into contracts with counties can ensure they are notified by including county notification as a contract requirement.

A commenter suggested revising §14.1(f)(2)(D)(iii) and §14.204(c)(6)(C) to delete the requirement that hospitals must certify that a physician ordered the services because physicians already must certify that services are medically necessary. This suggestion was not incorporated because all counties do not have the same capacity to match physician bills with hospital bills. Hospitals that enter into a contractual agreement with a county may specify in the contract that the hospital will bill the county only for services ordered by a physician. This contract stipulation would meet the intent of the hospital certification provision.

A commenter suggested amending §14.1(f)(2)(D)(iii) to require that county contracts specify that the payment standards for physician, lab, and x-ray services will be paid to avoid repetitive certification. DHS cannot incorporate this change because counties are not barred from paying more or less than the payment standards. Counties and providers that contract using the DHS payment standard, however, may add this provision in the contract.

A commenter requested that a statement be added to §14.101 to specify that households are eligible for six months unless there are changes. Under the Act, the eligibility concept for the county program is the same as for the AFDC Program. Unlike the Food Stamp Program, there is no time-limited certification period. Eligibility begins at a specific point in time and continues until a change causes the household to be ineligible. Therefore, DHS cannot establish any specific eligibility period.

A commenter requested deletion of §14.101(j)(2) that permits eligibility three months prior to the month of application. The commenter states that the provision is not required by the Act and it complicates the program. Although the Act does not specifically contain this provision, it does require DHS to base program requirements on AFDC and Medicaid rules. Medicaid rules include three months prior eligibility. DHS cannot delete this requirement for policy simplification, because to do so would make the policy more restrictive than Medicaid. The Act prohibits DHS from creating rules that are more restrictive than AFDC and Medicaid. In addition, this provision resolves problems that may arise if an eligible patient is unable to initially cooperate in the eligibility process.

A commenter requested that §14.103(f)(2) be revised to allow a Medicaid recipient who exhausts Medicaid benefits to be eligible for the county program to limit a hospital's liability. The Act prohibits the inclusion of AFDC/SSI recipients as household members. Therefore DHS cannot make this change.

A commenter requested a change to §14.105(c)(11) to prohibit counting a lump-sum payment received before certification and to specify that a lump-sum payment is counted only once. DHS did not make this change because it is not consistent with the concept of a lump-sum payment that is counted as a resource. As with any other cash resource, the unexpended amount of a lump-sum payment is countable regardless of when the payment is received.

A commenter requested that DHS clarify that the service definitions represent the minimal services that counties must provide, and that counties may provide additional services. DHS did not make the requested change because the service definitions are not only minimal, they also represent the maximum services a county is liable for providing. Section 14.204 specifies that counties may provide additional services.

A commenter suggested that the term "medically necessary" be defined and clarified in §14.201(1). DHS and the advisory committee oppose a standard definition for "medically necessary" because in individual situations a standard definition may either be too lax or too restrictive. Counties can best determine whether a service is medically necessary by contract, by committee, or through some other review.

A commenter requested deletion of §14.202(c)(10) to include autopsies as a mandatory service. DHS must comply with Medicaid Program service definitions. Autopsies are not allowed under Medicaid. The advisory committee also stated that counties may pay for autopsies if the public's health is at risk.

Commenters requested a change to §14.204 to require providers to supply Medicaid code numbers and Medicaid rate information to counties to simplify county program management. DHS did not make this section change. In contractual agreements, counties can require providers to give this information

A commenter suggested that §14.204 should specify how providers are to be reimbursed if a recipient is close to the \$30,000 county liability limit. DHS and the advisory committee believe that this is unnecessary, since counties are likely to reimburse providers on a first come, first served basis until the \$30,000 per recipient limit is reached. DHS rearranged some of the information in §14.104. Subsection (a) was changed to add paragraph (3) to define the term "regular and predictable income." This information was moved from subsection (e) in the proposed text. DHS believes that it is more appropriately placed in the subsection on definitions than in the subsection on budgeting. Paragraph (3) in subsection (a) was renumbered to (4) because of this addition. Also proposed paragraphs (2)-(5) in subsection (e) were renumbered to (1)-(4) because of the deleted material.

The DHS also made several minor changes to the section language to further improve the clarity and accuracy of the sections.

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

Subchapter A. Program Administration

★40 TAC §14.1, §14.2

§14.1. County Program Administration.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Day on which county expends funds—The county expends funds on the day it writes a check paying for a bill.

(2) Days—Calendar days. Workdays are specifically identified as such.

(3) Eligibility staff—Individuals who determine program eligibility. These individuals may be county officials, county personnel, or persons determining program eligibility under contract with the county. If the term "staff" is used alone, it has the same meaning.

(4) General revenue tax levy (GRTL)—The county's annual general revenue tax levy. The GRTL excludes the \$.30 county tax for FM roads or flood control (lateral road fund) and the \$.15 county tax for maintenance of public roads (special road and bridge fund). All other county property taxes are included in the county's GRTL. The GRTL used to establish the county's 10% limit for the County Indigent Health Care

Program in the coming state fiscal year is the county's adjusted GRTL as of July 31 of the current year. In counties partially served by a hospital district, the counties' 10% limit is based on the GRTL for the property outside the area served by the hospital district.

(5) Public facility. A public hospital or a hospital owned, operated, or leased by a hospital district or a hospital authority.

(6) Public hospital. A hospital owned, operated, or leased by a county, city, town, hospital authority, or other political subdivision of the state, excluding a hospital district.

(7) State fiscal year. The 12-month period beginning September 1 of each calendar year and ending August 31 of the following calendar year.

(b) County responsibility for an indigent health care program. Each county without a public facility legally obligated to serve the entire county must administer a County Indigent Health Care Program that serves all or that portion of the county not served by a public facility. The county's program must provide mandatory health care services to eligible county residents who do not live in a county area served by a public facility. If a county owns a public hospital, and the county sells or leases the hospital to another party, the terms of the sale or lease agreement determine the type and level of county responsibility. If the sale or lease represents the county's attempt to totally divest itself of the public hospital or reduce the level of services provided by the hospital, subtitles D and E of the Indigent Health Care and Treatment Act apply.

(c) General administrative requirements. Each county required to administer a program must:

(1) provide public notice, at the beginning of the county's fiscal year, of the county's application, documentation, and verification procedures and the verification and documentation procedures that applicants must comply with to establish eligibility;

(2) establish an application procedure;

(3) furnish each applicant with a written application form;

(4) assist applicants in completing the application form and the application process, and inform applicants that this assistance is available;

(5) require applicants to sign a written statement swearing to the truth of the information they supply;

(6) determine eligibility within 14 days after the date a completed application is received;

(7) provide applicants with a written notice of the eligibility decision. Each county must include on its notice to denied applicants the reason for denial and an explanation of the county's appeal process;

(8) inform approved households that they must report any changes in income and

resources within 14 days after the date the change occurs.

(9) review the eligibility of each household at least once every six months.

(10) develop a process for reviewing denied cases and for hearing appeals requested by households that are denied assistance.

(11) maintain a case record for each eligible and denied applicant for a minimum of three state fiscal years from the date the application is received; and

(12) allow denied applicants to re-submit an application whenever circumstances justify an eligibility redetermination.

(d) County administrative option.

(1) Counties may administer or may contract with others to administer a program that uses:

(A) the eligibility policies; the application, documentation, and verification procedures; and the service definitions contained in this chapter; or

(B) county-developed standards and procedures that are less restrictive than those contained in this chapter.

(2) Counties cannot credit expenditures towards eligibility for state assistance if the expenditures are for a:

(A) resident eligible under less restrictive eligibility standards but ineligible under the DHS-established standards; or

(B) resident whose eligibility is established using application, documentation, and verification procedures not contained in this chapter.

(e) State assistance fund.

(1) The Department of Human Services (DHS) is responsible for distributing state assistance to eligible counties to the extent appropriated state funds are available. In distributing the state assistance fund, DHS must ensure that the county:

(A) complied with the eligibility policies and the application, documentation, and verification procedures contained in this chapter; and

(B) expended 10% of the applicable GRTL in the state fiscal year for the provision of mandatory health care services to eligible county residents. For purposes of receiving state assistance, the county's 10% GRTL amount applies only to county expenditures during the state fiscal year.

(2) DHS distributes funds to eligible counties on a first-come, first-served basis. If DHS anticipates that the state assistance fund will be expended before the end of the state fiscal year, DHS notifies all counties in writing of the unavailability of state assistance for the remainder of that state fiscal year.

(f) Eligibility requirements for counties applying for state assistance.

(1) Each county that plans to credit expenditures towards eligibility for the state assistance fund must:

(A) comply with the eligibility standards and the application, documentation, and verification procedures contained

in this chapter. County use of the DFIN application for county medical assistance form, the eligibility worksheet, the medical services record, and the monthly financial/activity report is also required. County use of other DFIN forms is not required if the county substitutes a similar form with the same content as the DFIN form;

(B) expend 10% of the county's GRTL during the state fiscal year for mandatory health care services for eligible county residents;

(C) notify DHS, in writing, by July 31 of each year, that the county:

(i) intends to comply with the requirements established for counties applying for state assistance; and

(ii) budgeted 10% of its GRTL to provide mandatory services to eligible households;

(D) notify DHS, in writing, within seven days after the county has expended 8% of its GRTL;

(E) notify DHS, by telephone and in writing, as soon as possible before the date on which the county anticipates it will expend 10% of its GRTL;

(F) use adequate, auditable accounting records and procedures that establish a clear, accurate audit trail for each expenditure;

(G) complete and submit reports prescribed by DHS to DHS within 10 days after the end of each month;

(H) complete and submit a State of Texas purchase voucher to DHS to claim state matching funds;

(I) maintain a case record for each eligible and denied resident;

(J) cooperate fully with DHS by providing any and all information requested by DHS in an audit of county records or a review of county eligibility for state assistance;

(K) maintain all records and vouchers for three state fiscal years after the relevant state fiscal year; and

(L) request the county appraisal district to determine the GRTL of county property located outside the area served by a hospital district, if the county is partially served by a hospital district, and report this GRTL to the State Property Tax Board by July 31 of each year.

(2) Counties may not credit payments for the following towards eligibility for state assistance:

(A) ineligible households;

(B) nonmandatory services;

(C) amounts for mandatory services that exceed the payment rates established by DHS;

(D) mandatory services if:

(i) a physician provides the service and does not certify in writing that the service was medically necessary; or

(ii) a nonphysician provides the service and does not certify in writing that the service was ordered by a physician.

(l) county program administrative expenses

(g) DHS administration of state assistance fund. The following procedures are established to assist counties in the management of their programs:

(1) DHS sends a monthly report on the status of the assistance fund after 90% of the fund is expended.

(2) After 90% of the assistance fund is expended, counties that have expended 10% of their GRF may:

(A) discontinue their programs;

(B) continue their programs without requesting state assistance funds; or

(C) comply with the procedures specified in clauses (i)-(iv) of this subparagraph.

(i) The county may contact DHS by telephone to request state assistance. If sufficient funds are available, DHS reserves an appropriate amount of state funds for the county and gives the county an approval code number.

(ii) The county must enter the approval code number on the State of Texas purchase voucher that the county submits to request the state funds held in reserve for the county.

(iii) The county may request additional reserved funds only after the previously reserved funds are committed.

(iv) The county must repeat the steps outlined in clauses (i)-(iii) of this subparagraph to request additional state assistance funds.

§14.2. Residency Disputes and Fraud.

(a) If a county, a public hospital, a hospital district, or other provider cannot agree on a household's residency, the entities involved in the dispute may request DHS to resolve the issue.

(b) The following procedures are used to request DHS to resolve a residency dispute.

(1) The involved entities must submit to DHS' Indigent Health Care Policy Section a DHS residency dispute resolution request and all other information relevant to the household's situation.

(2) The policy section determines if another entity(ies) is involved in the dispute, notifies the other entity(ies), and allows the entity(ies) to submit a residency dispute resolution request and all other relevant information.

(3) The policy section determines the household's residency based on the information submitted and notifies the involved entities of the decision and basis for the decision.

(c) If one or more of the involved entities disagree with the policy section's decision, the entity(ies) may request a DHS appeal hearing. The following procedures apply when the entity(ies) requests an appeal hearing.

(1) The entity(ies) must file the request for appeal hearing by submitting a new

residency dispute resolution request, with the policy section's decision and all other relevant information, to DHS' Office of the General Counsel within 30 days from the date the involved entity(ies) received notice of the policy section's decision.

(2) The Office of the General Counsel conducts the appeal hearing and issues a final decision within 21 days from the date the request for appeal hearing is filed unless the parties agree to an extension.

(d) If one or more of the involved entities are dissatisfied with the Office of the General Counsel's final decision, the dissatisfied entity(ies) may then appeal the decision under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. The substantial evidence review applies on appeal.

(e) If a household is otherwise eligible, services must be provided to the eligible household pending resolution of the dispute.

(f) If a county discovers that a household intentionally misrepresented information to receive benefits, the county may recover the funds through household restitution or court action. Counties may consult with the county attorney to develop a procedure for administering suspected fraud cases.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986

TRD-8603168

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986

Proposal publication date: January 21, 1986

For further information, please call

(512) 450-3766.

★ ★ ★

Chapter 29. Purchased Health Services

The Texas Department of Human Services proposes the repeal of §§29.101-29.104, 29.401-29.403, and 29.1501-29.1504, amendments to §§29.310, 29.502, 29.603, 29.604, 29.1001, and 29.1102, and new §§29.101-29.104, concerning purchased health services. These actions are necessary to eliminate and limit some covered health care services because of state funding limitations. Specific changes are as follows:

Sections 29.101-29.104 are repealed and replaced by new §§29.101-29.104. New §§29.101-29.104 address optometric services available to Medicaid recipients who are 21 years or older. Services are limited to one examination of the eyes by refraction for each recipient each state fiscal year, and prosthetic eyewear prescribed for post-

cataract surgery, congenital absence of the eye lens, or loss of an eye lens because of trauma. Services will include appropriate repairs and replacement of lost or destroyed prosthetic eyewear. The program will no longer cover nonprosthetic eyewear for recipients who are 21 years old or older. Optometric services, including nonprosthetic eyewear, available to Medicaid recipients who are under 21 years old, will be provided through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. These services will be described in the EPSDT Program chapter.

Section 29.310 is amended to specify that payment for home health services is based on reasonable cost, less a budgetary adjustment factor of 10%. As directed by the Board of Human Services, payments to physicians and other providers on the basis of reasonable charges will also be reduced by 10% of the reasonable charge for a specific service. A rule change is not necessary to implement these payment cutbacks, however, as §29.1104, reasonable charges, of the department's sections, permits the Board of Human Services to establish reasonable charges.

Sections 29.401-29.403 are repealed, as the Texas Medicaid Program will no longer cover chiropractic services.

Section 29.502 is amended to specify that physician visits will be limited to a maximum of 30 visits to a hospital in-patient by the primary care physician in each 12-month period, and a maximum of 12 visits to a recipient who is not a hospital in-patient in each 12-month period.

Sections 29.603 and 29.604 are amended to specify a maximum of 30 days of in-patient hospital services per recipient in each 12-month period, a maximum of four emergency room visits and related ancillary services per recipient in each 12-month period unless otherwise specified by the department or its designee, and a maximum of six visits on an out-patient hospital basis and related ancillary services per recipient in each 12-month period.

Section 29.1001 is amended to delete the definitions of eyeglasses, eyeglass supplier, and Title XIX, Spell of Illness. Definitions of prosthetic eyewear and prosthetic eyewear supplier are being added.

Section 29.1102 is amended to delete references to chiropractic services. Sections 29.1501-29.1504 are repealed, as the Texas Medicaid Program will no longer cover hearing aid services.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the sections will be in effect there will be fiscal implications for state and units of local government. The anticipated savings for the state are \$2,698,370 in fiscal year 1986, \$18,921,446 in fiscal year 1987, \$18,643,980 in fiscal year 1988, \$19,576,180 in fiscal year 1989;

and \$19,263,204 in fiscal year 1990. The anticipated loss of revenue to units of local government will be \$104,333,338,171 in fiscal year 1986, \$4,381,998,600,184 in fiscal year 1987, \$4,001,090,093,343 in fiscal year 1988, \$4,831,150,039,010 in fiscal year 1989, and \$5,072,708,6717,910 in fiscal year 1990. The estimated loss of revenue to small businesses is \$14,090,263,378 in fiscal year 1986, \$592,162,106,891 in fiscal year 1987, \$621,770,119,185 in fiscal year 1988, \$652,858,117,146 in fiscal year 1989, and \$685,501,233,902 in fiscal year 1990.

Mr. Martin also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the department will provide services to eligible Medicaid recipients within the limitations of state funding. The sections will also clarify what services will be available. There is no anticipated economic cost to individuals required to comply with the sections.

The department will hold a public hearing to accept comments on the proposal at 9 a.m. on Thursday, May 1, 1986, in the Department of Human Services public hearing room, 701 West 51st Street, Austin. Written comments are invited and may be sent to Cathy Rossberg, Administrator, Policy Development Support Division-158, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The repeals are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

Subchapter B. Optometric Services

★ 40 TAC §§29.101-29.104

§29.101. *Benefits and Limitations.*

§29.102. *Specifications for Eyewear.*

§29.103. *Reimbursement for Optometric Services.*

§29.104. *Additional Claims Information Requirements.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986

TRD-8603174

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption.

May 12, 1986

For further information, please call
(512) 450-3766

★ ★ ★

★ 40 TAC §§29.101-29.104

The new sections are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorize the department to administer public and medical assistance programs.

§29.101. *Benefits and Limitations.* The services addressed in this subchapter are those services available to Medicaid recipients who are 21 years old or older. Services are available to Medicaid recipients under 21 years old through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. The amount, duration, and scope of optometric services available through the Texas Medical Assistance (Medicaid) Program are established according to applicable federal regulations, the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act, state law, and department rules. Information regarding benefits and limitations is available to providers of these services through the Texas Medicaid Provider Procedures Manual which is issued to each provider on enrolling in the Medicaid Program. The benefits and limitations applicable to optometric services available through the Medicaid Program to Medicaid recipients who are 21 years old or older are as follows.

(1) Provider eligibility. All services reimbursable by the program must be provided to eligible recipients by a physician, optometrist, or optician enrolled in the Medicaid Program at the time the service(s) is provided.

(2) Reimbursable services.

(A) Examination. One examination of the eyes by refraction may be provided to each eligible recipient each state fiscal year (September 1-August 31).

(B) Prosthetic eyewear. Prosthetic eyewear, including contact lenses and glass or plastic lenses in frames, is a program benefit provided to an eligible recipient if the eyewear is prescribed for postcataract surgery, congenital absence of the eye lens, or loss of an eye lens because of trauma.

(i) Reimbursement is made for as many temporary lenses as are medically necessary during postsurgical cataract convalescence (the four-month period following the date of cataract surgery).

(ii) Only one pair of permanent prosthetic lenses can be dispensed as a program benefit. Reimbursement is made by the program for the replacement of lost or destroyed prosthetic eyewear.

(C) Repairs. Repairs to prosthetic eyewear are reimbursable if the cost of materials exceeds \$2.00. Repairs costing less are not reimbursable by the program and the provider may not bill the recipient for these services.

(D) Optometric services provided in skilled or intermediate care facilities. These services are reimbursable by the program if the recipient's attending physician has ordered the service(s) and the order is

included in the recipient's medical record in the nursing facility.

§29.102. *Specifications for Prosthetic Eyewear.* The provider must ensure that prosthetic eyewear meets the following specifications:

(1) lenses are clear glass or plastic, meet federal and state specifications, and meet all standards of the American standard prescription requirements for first quality glass and plastic lenses dress eyewear;

(2) frames are either zylonite or combination metal and zylonite;

(3) standard sizes of the frames are dispensed at no cost to the eligible recipient. An eyewear supplier must show each eligible recipient a choice of:

(A) three styles of zylonite frames appropriate for male and female in a choice of three colors; or

(B) two styles of combination metal and zylonite frames appropriate for male and female in a choice of two colors;

(4) frames are only those manufactured in the United States of America, unless foreign-made frames are comparable in quality to and less expensive than American-made frames. Lenses are only those manufactured in the United States of America, unless foreign-made lenses are comparable in quality to and less expensive than American-made lenses;

(5) frames are serviceable and meet prescription quality standards;

(6) lenses and frame materials are new;

(7) supplies are at least equivalent in quality to program eyewear provided under this chapter at no cost to the eligible recipient; and

(8) repair materials for which a charge is made are new and at least equivalent to the original item and meet specifications for prosthetic eyewear cited in these provisions.

§29.103. *Reimbursement for Optometric Services.* The department periodically determines the rate of reimbursement for optometric services within appropriation limitations of the Texas Medical Assistance (Medicaid) Program. The department or its designee determines reasonable charges according to the provisions described in §29.1104 of this title (relating to Reasonable Charges).

(1) Examination. Reimbursement for an eye examination is based on the reasonable charge for providing the service.

(2) Eyewear. Reimbursement for temporary and permanent postsurgical prosthetic lenses is based on the provider's reasonable charge profile and includes fitting services. Reimbursement by the Medicaid Program is limited to the type of lenses and frames prescribed under §29.102 of this title (relating to Specifications for Prosthetic Eyewear). There is no charge to the recipient for this eyewear. The provider may dispense eyewear with optional features that include, but are not limited to, special tints, coatings,

and types of lenses and styles of frames selected by the recipient beyond the specifications of the Medicaid Program. The department or its designee reimburses the provider up to the allowable amount for the basic eyewear, and the recipient is responsible for the cost of the optional feature(s) he selects.

(A) The recipient selecting optional features must sign the claim at the indicated place acknowledging selection of eyewear or features beyond program benefits.

(B) The recipient is responsible for arranging to pay for the optional feature(s) with the provider.

(C) The provider may charge the recipient his usual price for the selected optional feature(s), but he may not charge for his professional services.

(3) Contact lenses. Reimbursement for covered contact lenses is at the level of reasonable charge, including the handling and dispensing services provided by the supplier.

(4) Repairs. Repairs, as described in §29.101(2)(C) of this title (relating to Benefits and Limitations), are reimbursed by the department or its designee at the provider's actual cost for supplies plus the allowable handling fee, which is established by the department or its designee.

(A) Reimbursement for repairs does not exceed the replacement cost if the damaged eyewear had been replaced rather than repaired.

(B) No reimbursement is made for repairs to eyewear that does not meet the specifications in §29.102 of this title (relating to Specifications for Prosthetic Eyewear).

(5) Eyewear materials and supplies. No reimbursement is made by the department or its designee for eyewear materials or supplies, regardless of cost, that do not meet the specifications for eyewear in §29.102 of this title (relating to Specifications for Prosthetic Eyewear).

§29.104. *Additional Claims Information Requirements.* Providers must meet the claim criteria established in the provisions of this subchapter for optometric services and the provisions for participation in the Medicaid Program established under Subchapter A (relating to Medicaid Procedures for Providers) and Subchapter L (relating to General Administration) of the Purchased Health Services chapter. Besides the claims information requirements established in §29.1 of this title (relating to Claim Information Requirements), the following information is required for claims for services:

(1) name, address, and Medicaid provider identification number of the ordering provider, as appropriate;

(2) description of lenses and frames provided;

(3) certification by the provider that the dispensed eyewear materials used for repairs meet the specifications for eyewear in §29.102 of this title (relating to Specifications for Prosthetic Eyewear);

(4) claims for eyewear with special features must be signed by the recipient, acknowledging his selection of eyewear that is beyond the specifications for eyewear in §29.102 of this title (relating to Specifications for Prosthetic Eyewear);

(5) a copy of the invoice for supplies dispensed must be attached to a claim for repairs;

(6) reimbursement for replacement eyewear is contingent upon the original eyewear being lost or damaged beyond repair. The recipient must sign the claim form; and

(7) the provider must show the name of the physician who ordered optometric services on a claim showing a skilled nursing facility or an intermediate care facility as the place of service.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603175 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter D. Medicaid Home Health Program

★40 TAC §29.310

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.310. *Payment for Home Health Services.*

(a) Authorized home health care benefits provided for eligible Medicaid recipients are reimbursed on the basis of reasonable cost less a budgetary adjustment factor of 10 percent, applying the same standards, cost reporting period, and cost reimbursement principles currently used in computing reimbursement for comparable services under Title XVIII Medicare.

(b)-(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603176 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 450-3766.

Subchapter E. Medicaid Chiropractic Program

★40 TAC §§29.401-29.403

The repeal is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.401. *Additional Claim Information Requirements.*

§29.402. *Filing Deadline.*

§29.403. *Authorized Chiropractic Services.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603177 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter F. Physician Services

★40 TAC §29.502

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.502. *Authorized Physician Services.*

(a) The term "physician services" includes those reasonable and medically necessary services provided by or under the personal supervision of a physician and which are within the scope of practice of medicine or osteopathy as defined by state law. The term "personal supervision" means that the physician must be in the building of the office or facility at the time, when, and where the service is provided.

(b) Payment for physician visits are limited to:

(1) a maximum of 30 visits to a hospital in-patient by the primary care physician in each 12-month period. The 12-month period begins with the date of the first covered in-patient hospital visit and ends 12 consecutive months later;

(2) a maximum of 12 visits per recipient while the recipient is not an in-patient in a hospital in each 12-month period. The 12-month period begins with the date of the first covered visit and ends 12 consecutive months later.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603178

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter G. Hospital Services

★40 TAC §29.603, §29.604

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.603. Authorized In-patient Hospital Services. In-patient hospital services include those items and services ordinarily furnished by the hospital for the care and treatment of in-patients which are provided under the direction of a physician in a Title XIX hospital or a Title XVIII or XIX out-of-state hospital approved for participation. Except as otherwise specified, and subject to the qualifications, limitations, and exclusions set forth, benefits are provided for hospital services set forth as follows when provided to eligible recipients.

(1) Duration of care. When an eligible recipient is confined as an in-patient in [to] a Title XIX hospital, or a Title XVIII or Title XIX out-of-state hospital approved for participation, [as an in-patient,] the health insuring agent pays [provides benefits] for medically necessary in-patient hospital services actually furnished to the recipient not to exceed [him during the first] 30 days [of such confinement] in each 12-month period [during each Title XIX spell of illness, if medically necessary]. The 12-month period begins when the recipient receives his first covered hospital service as a hospital in-patient and ends 12 consecutive months later. Such services are subject to the utilization review requirements of the Texas Medical Assistance Program.

(2) (No change.)

§29.604. Authorized Outpatient Hospital Services. Outpatient hospital services include diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician, except that no payment is made for:

(1)-(4) (No change.)

(5) more than four visits to an emergency room and related ancillary services per recipient in each 12-month period unless otherwise specified by the department or its designee. The 12-month period begins with the date of the recipient's first covered visit and ends 12 consecutive months later.

(6) more than six visits on an outpatient hospital basis and related ancillary

services per recipient in each 12-month period. The 12-month period begins with the date of the recipient's first covered visit and ends 12 consecutive months later.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603179

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter K. Definitions

★40 TAC §29.1001

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.1001. General Definitions for Purchased Health Services. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

[Eyeglasses—Eyewear dispensed and delivered which is medically necessary and prescribed by a doctor of optometry or physician, is professionally adjudged to be necessary and appropriate for the lens, age, and sex of the eligible recipient, and significantly improves visual acuity or impedes progression of visual problems. The term "eyeglasses" does not include artificial eyes or any item of eyewear for which benefits are not provided in the department's rules regarding the Medicaid eyeglass program.

[Eyeglass supplier—A person, firm, or institution who has entered into a written agreement with the health insuring agent as an eyeglass supplier on a form approved by the department provided that the benefits shall be available for eyeglass services and supplies dispensed by an eyeglass supplier only if the fitting, adjustment, and repair of the eyewear involved is performed by a physician, doctor of optometry, or an optician; and provided further that an eyeglass supplier is an eligible provider under this program. Such suppliers must accept the benefits paid as stipulated by the department as payment in full for the service and supplies involved, except as otherwise provided.]

Prosthetic eyewear—Eyewear that is medically necessary and prescribed by a doctor of optometry or physician for post-cataract surgery, congenital absence of the eye lens, or loss of an eye lens because of trauma. Prosthetic eyewear includes contact lenses and glass or plastic lenses in frames.

Prosthetic eyewear supplier—A person, firm, or institution that has entered into a written agreement approved by the department with the department's health insuring agent as an eyewear supplier. Benefits are available for eyewear services and supplies dispensed by an eligible eyewear supplier only if the fitting, adjustment, and repair of the eyewear is performed by a physician, a doctor of optometry, or an optician. The eyewear supplier must accept the payment as stipulated by the department as payment in full for the services and supplies, except as otherwise provided in this chapter.

[Title XIX Spell of Illness—With respect to in-patient hospital services, spell of illness is a continuous period of hospital confinement. Successive periods of hospital confinement are considered to be continuous unless the last date of discharge and the date of readmission are separated by at least 60 consecutive days.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on 4, 1986.

TRD-8603180

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
May 12, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter L. General Administration

★40 TAC §29.1102

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.1102. Payments for Laboratory and X-Ray Services, Radiation Therapy, Physician Services, Podiatry Services, [Chiropractic Services,] Optometric Services, Ambulance Services, and Dentists' Services. Subject to qualifications, limitations, and exclusions as provided in this chapter, payment to eligible providers for laboratory and X-ray services, radiation therapy, physician services, podiatry services, [chiropractic services,] optometric services, ambulance services, and dentists' services, other than in-patient or outpatient services of a Title XIX hospital, must not exceed the reasonable charge for specific service as provided in §29.1104 of this chapter (relating to Reasonable Charges).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603181

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 450-3766.

★ ★ ★

★ 40 TAC §29.1112

The Texas Department of Human Services proposes an amendment to §29.1112, concerning exclusions and limitations. The amendment sets a \$50,000 limit (per recipient, per 12-month period) on payments for hospitalization-related services and supplies provided to recipients covered under the Texas Medical Assistance (Medicaid) Program. This limit would apply to all services received while a recipient is an inpatient in a hospital.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The anticipated savings to the state are an estimated \$1,208,647 in fiscal year 1987; \$1,541,211 in fiscal year 1988; \$1,948,371 in fiscal year 1989; and \$2,441,939 in fiscal year 1990. There are no anticipated savings to the state in fiscal year 1986. The estimated loss of revenue to units of local government is \$2,004,002-2,472,472 in fiscal year 1987; \$2,501,410-3,152,779 in fiscal year 1988; \$3,230,503-3,985,685 in fiscal year 1989; and \$4,048,865-4,217,353 in fiscal year 1990. There is no anticipated loss of revenue to units of local government in fiscal year 1986. The loss-of-revenue amounts to units of local government include both federal and state dollars. There are no fiscal implications to small businesses as a result of the section.

Mr. Martin also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the cap will help ensure the continued availability of funds to provide services to recipients in the Medicaid Program. There are no anticipated economic costs to individuals who are required to comply with the section.

Written comments are invited and may be sent to Cathy Rossberg, Administrator, Policy Development Support Division-060, Texas Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 32, which authorizes the department to administer medical assistance programs.

§29.1112. Exclusions and Limitations.

(a) Benefits do not extend to:

(1)-(19) (No change.)

(20) Any medical and remedial care, services, and supplies provided to a hospital inpatient by all practitioners, providers, or suppliers after total hospitalization-related expenditures under the Texas Medical Assistance Program reach \$50,000 per recipient, per 12-month benefit period, unless otherwise specified by the department as directed by the department's board. For the purposes of this limit, 12-month benefit period means 12 consecutive months beginning with the date of an eligible recipient's first covered service as a hospital inpatient. The limit applies to hospitalization-related services while the recipient is a hospital inpatient regardless of how soon, within the 12-month period, the limit is reached and regardless of how many hospital stays are involved. For the purposes of this limit, the department's agent processes and pays claims, if payable, in order of receipt.

(b)-(d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603172

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption.

May 12, 1986

For further information, please call
(512) 450-3766

★ ★ ★

Subchapter P. Hearing Aid Services

★ 40 TAC §§29.1501-29.1504

The repeals are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§29.1501. *Benefits and Limitations.*

§29.1502. *Requirements for Hearing Aid Services.*

§29.1503. *Requirements for Provider Participation.*

§29.1504. *Reimbursement for Hearing Aid Services.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603182

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

May 12, 1986

For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

Subchapter T. EPSDT Eyeglass Program

★ 40 TAC §§33.401-33.405

The Texas Department of Human Services proposes new §§33.401-33.405, concerning eyeglasses in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. The new sections constitute a new Subchapter T, concerning EPSDT Eyeglass Program.

The department is transferring sections concerning the Eyeglass Program from the purchased health services chapter to the EPSDT chapter because these services are limited to Medicaid recipients under the age of 21 and will be provided through the EPSDT Program. The proposed new sections cover the vision testing and treatment services mandated by the federal EPSDT regulations for these recipients. The sections cover the benefits and limitations, eligibility, specifications, and reimbursement for these services.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government. The estimated effect on state government will be a cost to the EPSDT Program of \$375,375 for fiscal year 1986 (last three months), \$1,576,575 for fiscal year 1987, \$1,655,404 for fiscal year 1988, \$1,738,174 for fiscal year 1989, and \$1,825,083 for fiscal year 1990. Although these figures represent a cost to the EPSDT Program, there is a total savings to the state as reflected in the proposed rule changes in the purchased health services chapter submitted by the department for publication in the *Texas Register*. There is no effect on local government or small businesses as a result of enforcing or administering the sections.

Mr. Martin also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be insurance of continuation of eye examination and treatment services for Medicaid recipients under the age of 21. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-199, Texas Department of Human Services,

153-E, P. O. Box 2960, Austin, Texas 78769, Mail Code 153-E, within 30 days of publication in the *Texas Register*.

The new sections are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance and medical programs.

§33.401. Definitions. The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

Eyeglass supplier—A person, firm, or institution that has a written agreement with the health insuring agent as an eyeglass supplier and is an eligible provider under the program. The fitting, adjustment, and repair of the eyewear must be performed by a physician, doctor of optometry, or an optician. Suppliers accept the payments stipulated by the department as payment in full for the service and supplies involved, unless otherwise provided.

Eyeglasses—Eyewear, dispensed and delivered, that is medically necessary; is prescribed by a doctor of optometry or a physician; is professionally determined to be necessary and appropriate for the lens, age, and sex of the recipient; and that significantly improves visual acuity or impedes progression of visual problems. The term eyeglasses does not include artificial eyes or any item of eyewear that is not covered under the EPSDT Eyeglass Program.

Prosthetic eyewear—Eyewear that is medically necessary and prescribed by a doctor of optometry or physician for post cataract surgery, congenital absence of the eye lens, or loss of an eye lens because of trauma. Prosthetic eyewear includes contact lenses and glass or plastic lenses in frames.

Prosthetic eyewear supplier—A person, firm, or institution that has a written agreement with the department's health insuring agent as an eyewear supplier. The fitting, adjustment, and repair of the eyewear must be performed by a physician, a doctor of optometry, or an optician. The eyewear supplier accepts the payment stipulated by the department as payment in full for the services and supplies, unless otherwise provided in this chapter.

§33.402. Benefits and Limitations. The benefits and limitations applicable to optometric services available through the Medicaid EPSDT Program are as follows.

(1) Recipient eligibility. All Medicaid recipients under the age of 21 are eligible for EPSDT optometric services. Services may be continued through the month the eligible recipient becomes 21.

(2) Provider eligibility. All optometric services reimbursable by the program must be provided to eligible recipients by a physician, optometrist, or optician enrolled in the Medicaid Program at the time the service is provided.

(3) Reimbursable services.

(A) Examination. One examination of the eyes by refraction may be provided to each eligible recipient each state fiscal year (September 1-August 31).

(B) Eyewear. Eyewear that is medically necessary to correct vision defects may be provided to an eligible recipient. Eyewear includes eyeglasses (lenses and frames), contact lenses, and post cataract surgery prosthetic lenses.

(i) Nonprosthetic eyeglasses or contact lenses are available to an eligible recipient only once every 24 months, unless the recipient's visual acuity has changed by .5 diopters or more, or the eyewear is lost or destroyed.

(I) Prescriptions for contact lenses must be authorized by the department or its designee in writing before dispensing. Prior authorization is based on the provider's written documentation that contact lenses are the only means of correcting the vision defect.

(II) Prescriptions for plastic lenses must include the provider's written justification of the medical necessity for the plastic lenses on the claim form sent to the department or its designee.

(ii) Prosthetic eyewear is provided to an eligible recipient if prescribed for post cataract surgery, congenital absence of the eye lens, or loss of an eye lens because of trauma.

(I) Reimbursement is made for as many temporary lenses as are medically necessary during post cataract surgery convalescence (four months after the date of surgery).

(II) Only one pair of permanent prosthetic lenses may be dispensed except to replace lost or destroyed prosthetic eyewear.

(C) Repairs. Eyeglass repairs are reimbursable if the cost of materials exceeds \$2.00. Repairs costing less are not reimbursable and the provider may not bill the recipient for these repairs.

(D) Replacement of lost or destroyed eyewear. Replacement of eyewear is reimbursable. The date eyewear is replaced begins a new 24-month ineligibility period for new eyewear unless the conditions in paragraph (3)(B)(i) of this section apply.

(E) Limitations. Eyeglasses for residents of institutions that include this service in their vendor payment are not reimbursed under this program.

§33.403. Specifications for Eyewear. The provider must ensure that eyewear provided through this program meets the following specifications.

(1) Lenses are clear glass, unless the provider determines that plastic lenses are medically necessary. Lenses meet federal and state specifications and all standards of the American standard prescription requirements for first quality glass and plastic lenses dress eyewear.

(2) Frames are either zylonite or a combination of metal and zylonite.

(3) Standard sizes of frames are dispensed at no cost to the eligible recipient. An eyeglass supplier must show the recipient a choice of:

(A) three styles of zylonite frames appropriate for male or female, children or adults, in a choice of three colors; or

(B) two styles of combination metal and zylonite frames appropriate for male or female, children or adults, in a choice of two colors.

(4) Frames are manufactured in the United States of America, unless foreign-made frames are comparable in quality and less expensive than American-made frames.

(5) Frames are serviceable and meet prescription quality standards.

(6) Lens and frame materials are new.

(7) Bifocal lenses are a minimum kryptoc or 22 MM flat top lens or equivalent.

(8) Trifocal lenses are a minimum flat top 7/25 lens or equivalent.

(9) Supplies are at least equivalent in quality to program eyeglasses provided under this category at no cost to the eligible recipient.

(10) Repair materials, if claimed for reimbursement, are new, are at least equivalent to the original item, and meet the specifications for eyewear cited in these provisions.

§33.404. Reimbursement. The department periodically determines the reimbursement rate for optometric services within appropriation limits of the Medicaid Program. The provider is notified of the reimbursement rate schedule by the department or its designee. Reasonable charges are determined according to the provisions for reasonable charges as described in §29.1104 of this title (relating to Reasonable Charges) in the purchased health services chapter.

(1) Examination. Reimbursement for eye examinations is based on the reasonable charge for providing the service.

(2) Eyeglasses. Reimbursement for eyeglasses is based on the unit cost for each pair of eyeglasses plus the allowable dispensing and handling fee established by the department or its designee, rather than costs for components. Reimbursement by the Medicaid Program is limited to the type of lenses and frames specified in §33.403 of this title (relating to Specifications for Eyewear). The recipient is not charged for this eyewear. A provider may dispense eyewear with optional features beyond the listed specifications such as special tints, coatings, and other lenses and frame styles selected by the recipient. The department or its designee reimburses the provider up to the allowable amount for the basic eyewear, and the recipient is responsible for the cost of the optional features selected.

(A) The recipient selecting optional features must acknowledge, on the signed

claim form, selection of eyewear or features beyond program benefits.

(B) The recipient must arrange payment for the optional features with the provider.

(C) The provider may charge the recipient the usual price for the optional features, but may not charge for his professional services.

(3) Contact lenses. Reimbursement for contact lenses is the reasonable charge, including the handling and dispensing services provided by the supplier.

(4) Repairs. Repairs, as described in §33.402(3)(C) of this title (relating to Benefits and Limitations), are reimbursed based on the provider's actual cost for supplies plus an allowable handling fee established by the department or its designee and indicated in the reimbursement rate schedule.

(A) Reimbursement for repairs may not exceed the replacement cost if the damaged eyewear had been replaced rather than repaired.

(B) No reimbursement is made for repairs to eyewear that does not meet the specifications in §33.403 of this title (relating to Specifications for Eyewear).

(5) Eyewear materials and supplies. No reimbursement is made for eyewear materials or supplies, regardless of cost, that do not meet the specifications for eyewear in §33.403 of this title (relating to Specifications for Eyewear).

§33.405. Claims Information Requirements. Providers must meet the criteria established in this subchapter for optometric services and the provisions for participation in the Medicaid Program established under Chapter 29, Subchapter A of this title (relating to Medicaid Procedures for Providers) and Subchapter L of this title (relating to General Administration). Besides the claims information requirements established in §29.1 of this title (relating to Claim Information Requirements), the following information is required for claims for optometric services:

(1) name, address, and Medicaid provider identification number of the ordering provider, as appropriate;

(2) description of lenses and frames provided;

(3) provider's signature on the claim verifying the diopter change required for the dispensing of eyeglasses;

(4) certification by the provider that the dispensed materials used for repairs meet the specifications for eyewear in §33.403 of this title (relating to Specifications for Eyewear);

(5) claims for eyewear with special features, signed by the recipient, acknowledging selection of eyewear that is beyond the specifications for eyewear in §33.403 of this title (relating to Specifications for Eyewear);

(6) a copy of the invoice for supplies dispensed, attached to a claim for repairs;

(7) if the claim for replacement eyewear or the records of the department or its designee show that less than 24 months have elapsed since the date of the original eyewear service, then:

(A) submission of a statement justifying the need for the replacement eyewear; and

(B) reimbursement, made only if the eyewear was lost or damaged beyond repair, or the recipient's visual acuity has changed significantly, as specified in §33.402(3)(B)(i) of this title (relating to Benefits and Limitations);

(8) prescriptions for plastic lenses, which must include a provider's written justification of the medical necessity for the plastic lenses on the claim form.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 4, 1986.

TRD-8803173

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption: 1
May 12, 1986
For further information, please call
(512) 450-3768.

★ ★ ★

Withdrawn

Rules An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

TITLE 16. ECONOMIC REGULATION Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Rates

★16 TAC §23.21

The Public Utility Commission of Texas has withdrawn from consideration the emergency effectiveness of §23.21, concerning substantive rules. The text of the amendment appeared in the February 28, 1986, issue of the *Texas Register* (11 TexReg 1033). The effective date is April 4, 1986.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603220 Rhonda Colbert Ryan
Secretary
Public Utility Commission
of Texas

Filed: April 4, 1986
For further information, please call
(512) 458-0100.

★ ★ ★



The Public Utility Commission of Texas has withdrawn from consideration the emergency effectiveness of §23.21, concerning substantive rules. The text of the amendment appeared in the February 28, 1986, issue of the *Texas Register* (11 TexReg 1037). The effective date is April 4, 1986.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603221 Rhonda Colbert Ryan
Secretary
Public Utility Commission
of Texas

Filed: April 4, 1986
For further information, please call
(512) 458-0100.

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part I. General Land Office Chapter 1. Executive Administration

★31 TAC §1.91

The General Land Office has withdrawn from consideration the emergency effectiveness of §1.91, concerning executive administration. The text of the amendment appeared in the February 14, 1986, issue of the *Texas Register* (11 TexReg 828). The effective date is April 28, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603267 Dan Miller
Deputy Commissioner
for Legal Services
General Land Office

Filed: April 7, 1986
For further information, please call
(512) 463-5009.

★ ★ ★

Part X. Texas Water Development Board Chapter 363. Rules Relating to Financial Programs Introductory Provisions

★31 TAC §§363.1-363.4

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §§363.1-363.4, concerning introductory provisions. The text of the new sections appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 523). The effective date of these sections is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603275 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986
For further information, please call
(512) 463-7850.

★ ★ ★

Policy Declarations

★31 TAC §§363.31-363.37

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §§363.31-363.37, concerning policy declarations. The text of the new sections appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 526). The effective date of these sections is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603276 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986
For further information, please call
(512) 463-7850.

★ ★ ★

Applications to the Board

★31 TAC §§363.52-363.60

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §§363.52-363.60, concerning applications to the board. The text of the new sections appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 527). The effective date of these sections is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603277 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986
For further information, please call
(512) 463-7850.

★ ★ ★

Prerequisites to Release of State Funds

★31 TAC §§363.81-363.85

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §§363.81-363.85, concerning prerequisites to release of state funds. The text of the new sections appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 532). The effective date of these sections is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603278

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986
For further information, please call
(512) 463-7850.

★ ★ ★

**Water, Wastewater, and Storage
Facilities Acquisition Program**

★31 TAC §§363.111, §363.112

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §§363.111, §363.112, concerning water, wastewater, and storage facilities acquisition program. The text of the new sections appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 536). The effective date of these sections is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603279

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986

For further information, please call
(512) 463-7850.

★ ★ ★

**Application to Acquire State
Interests or to Purchase Water,
Water Treatment, or Wastewater
Treatment**

★31 TAC §§363.161-363.165

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §§363.161-363.165, concerning application to acquire state interests or to purchase water, water treatment, or wastewater treatment. The text of the new sections appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 539). The effective date of these sections is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603280

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986

For further information, please call
(512) 463-7850.

★ ★ ★

**Post-Construction Responsibilities
Compliance Procedure**

★31 TAC §363.181

The Texas Water Development Board has withdrawn from consideration the emergency effectiveness of §363.181, concerning post-construction responsibilities compliance procedure. The text of the new section appeared in the January 28, 1986 issue of the *Texas Register* (11 TexReg 540). The effective date of the section is April 7, 1986.

Issued in Austin, Texas, on April 7, 1986.

TRD-8603281

Suzanne Schwartz
General Counsel
Texas Water Development
Board

Filed: April 7, 1986

For further information, please call
(512) 463-7850.

★ ★ ★

Adopted

Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Texas Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 21. Seed Certification Standards

★4 TAC §21.11

The Texas Department of Agriculture adopts an amendment to §21.11, without changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 978).

The amendment corrects an error in the cost of gummed seed certification labels.

The cost of seed certification gummed labels is changed from \$.03 to \$.06 per gummed label, in accordance with the intent of the 69th Legislature, 1985.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code, §61.008, which provides the Texas Department of Agriculture with the authority to fix and collect a fee for the issuance of certification labels provided for in the Texas Agriculture Code, Chapter 62.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 1, 1986.

TRD-8603153 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Effective date: April 24, 1986
Proposal publication date: February 25, 1986
For further information, please call
(512) 463-7583.

The amendment changes the date of last amendment to February, 1986, and changes the language of footnote 8 of the Genetic Seed Certification-Isolation Distances chart to conform with language adopted at the last meeting of the Texas State Seed and Plant Board. The purpose of this amendment is the elimination of red rice as a genetic contaminant and as a noxious weed in Texas.

Footnote 8 is changed to require that no red rice be permitted in the Foundation and Registered Classes, and only one in one million plants be allowed in the certified class. The date the chart and footnotes were last amended is changed from April 1984 to February 1986.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code, §62.004, which provides the state Seed and Plant Board with the authority to establish, not inconsistent with federal law, standards for certification of seed; and Texas Agriculture Code, §12.001, which provides the Texas Department of Agriculture with the authority to adopt rules to enforce the Texas Agriculture Code.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 1, 1986.

TRD-8603151 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Effective date: April 24, 1986
Proposal publication date: February 25, 1986
For further information, please call
(512) 463-7583.

TITLE 13. CULTURAL RESOURCES Part V. Texas Sesquicentennial Commission Chapter 51. General Operating Policy

★13 TAC §§51.1-51.7

The Texas Sesquicentennial Commission adopts the repeal of §§51.1-51.7, without changes to the proposed text published in the October 11, 1985, issue of the *Texas Register* (10 TexReg 76).

The repeals allow the commission to update these sections according to the commission's legislative duties as outlined in Senate Bill 1002 of the 69th Legislature, 1985.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 6145-11, which provide the Texas Sesquicentennial Commission with the authority to adopt rules to sanction official sponsors and official commemorative and/or promotional products.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 25, 1986.

TRD-8603184 Patrick Terry
Executive Director
Texas Sesquicentennial
Commission

Effective date: April 25, 1986
Proposal publication date: October 11, 1985
For further information, please call
(512) 463-1986.

★ ★ ★

Genetic Seed Chart

★4 TAC §21.51

The Texas Department of Agriculture adopts an amendment to §21.51, without changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 978).



★ ★ ★

Chapter 53. Program Guidelines

★13 TAC §§53.1-53.4

The Texas Sesquicentennial Commission adopts the repeal of §§53.1-53.4, without changes to the proposed text published in the October 11, 1985, issue of the *Texas Register* (10 TexReg 76).

The repeals allow the commission to re-define the promotional/commemorative products; retail and corporate/industrial accounts and close the commemorative/promotional products as of October 4, 1986.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 6145-11, which provide the Texas Sesquicentennial Commission with the authority to adopt rules to sanction official sponsors and official commemorative and/or promotional products.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 25, 1986.

TRD-8803185 Patrick Terry
Executive Director
Texas Sesquicentennial
Commission

Effective date: April 25, 1986
Proposal publication date: October 11, 1985
For further information, please call
(512) 463-1986.

★ ★ ★

TITLE 22. EXAMINING BOARDS Part XXII. Texas State Board of Public Accountancy Chapter 515. Licenses

★22 TAC §515.4

The Texas State Board of Public Accountancy adopts an amendment to §515.4, without changes to the proposed text published in the January 7, 1986, issue of the *Texas Register* (11 TexReg 90).

The amendment insures that a firm's annual license is not renewed until such time as all partners, officers, directors, or shareholders of the firm who reside in Texas and are certified or registered under Texas Civil Statutes, the Public Accountancy Act of 1979, as amended, Article 41a-1, 1981, shall have renewed their individual licenses.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority for promulgation of rules deemed necessary and appropriate to insure the proper registration of all firms.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 3, 1986.

TRD-8803227 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 25, 1986
Proposal publication date: January 7, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

★22 TAC §515.5

The Texas State Board of Public Accountancy adopts an amendment to §515.5, without changes to the proposed text published in the January 17, 1986, issue of the *Texas Register* (11 TexReg 250).

The amendment provides proper grammatical wording in the section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to issue rules relating to reinstatement of canceled licenses, with proper grammatical wording of the amendment.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 3, 1986.

TRD-8803225 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 25, 1986
Proposal publication date: January 17, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

No Waiver of Fee or Penalty

★22 TAC §515.6

The Texas State Board of Public Accountancy adopts an amendment to §515.6, without changes to the proposed text published in the January 7, 1986, issue of the *Texas Register* (11 TexReg 90).

The amendment provides proper grammatical wording in the section.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to issue rules relating to nonwaiver of fee and penalties relating to examination and licensing of individuals to provide public accounting services.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 3, 1986.

TRD-8803228 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Effective date: April 25, 1986
Proposal publication date: January 7, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part 1. General Land Office Chapter 1. Executive Administration

★31 TAC §1.91

The General Land Office (GLO) adopts an amendment to §1.91, without changes to the proposed text published in the February 14, 1986, issue of the *Texas Register* (11 TexReg 831).

The amendment is needed to reflect changes in GLO policy and to correct erroneous paragraph references in the section.

The amendment reduces the minimum term for a geophysical exploration permit from five days to three days. It also revises incorrect paragraph references to reflect the correct references.

No comments were received on the proposed rule.

The amendment is adopted under the Natural Resources Code, §52.324, which provides the commissioner of the General Land Office with the authority to establish and collect money for damages to the surface of land dedicated to the permanent school fund and to make any other rules relating to geophysical explorations, permits, or permittees.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 3, 1986.

TRD-8803285 Garry Mauro
Commissioner
General Land Office

Effective date: April 28, 1986
Proposal publication date: February 14, 1986
For further information, please call
(512) 463-5019.

★ ★ ★

**Part II. Texas Parks and
Wildlife Department
Chapter 65. Wildlife
Subchapter R. Deer Antlers**

★31 TAC §§65.400-65.406

The Texas Parks and Wildlife Commission adopts new §§65.400-65.406, without changes to the proposed text published in the February 14, 1986, issue of the *Texas Register* (11 TexReg 832).

The sections are necessary to comply with the Parks and Wildlife Code, §62.021, which mandates the authorization and regulation of the sale, purchase, and possession after purchase of deer antlers for the benefit of the public.

The sections provide a mechanism whereby the sale, purchase, and possession of deer antlers throughout the state is controlled and recorded.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Parks and Wildlife Code, Chapter 62, which provides the Texas Parks and Wildlife Commission with the authority to authorize and regulate the sale, purchase, and possession after purchase of deer antlers.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 2, 1986.

TRD-8003111

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: April 23, 1986

Proposal publication date: February 14, 1986
For further information, please call
(512) 479-4848.

★ ★ ★

**TITLE 34. PUBLIC
FINANCE**

**Part I. Comptroller of
Public Accounts**

**Chapter 3. Tax Administration
Subchapter V. Bingo Regulation
and Tax**

★34 TAC §3.559

The Comptroller of Public Accounts adopts new §3.559, without changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 992). The adoption prescribes the accounting treatment for rental payments received by affected parties. The new section provides an audit trail for the comptroller with respect to this type of income,

while at the same time simplifying book-keeping procedures for affected parties.

No comments were received regarding the adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 7, 1986.

TRD-8003274

Bob Bullock
Comptroller of Public
Accounts

Effective date: April 28, 1986

Proposal publication date: February 25, 1986
For further information, please call
(512) 463-4608.

★ ★ ★

**Part III. Teacher Retirement
System of Texas**

**Chapter 29. Benefits
Disability Retirement**

★34 TAC §29.26

The Board of Trustees of the Teacher Retirement System of Texas adopts §29.26, without changes to the proposed text published in the February 11, 1983, issue of the *Texas Register* (11 TexReg 795).

The new section affords administrative convenience by implementing the board's mandate that disability retirees less than 60 years old who are restored to active service or who refuse for more than one year to submit to a required medical examination be immediately restored to active membership status upon satisfaction of the statutory conditions. The new section also provides for notification to the member whose benefits are discontinued. Restoration to active membership is an administrative action with notice to the member who has a right of appeal.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Title 110B, §35.102, which provide the Board of Trustees of the Teachers Retirement System of Texas with the authority to adopt rules for membership eligibility, administer the funds of the retirement system, and conduct its business.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 3, 1986.

TRD-8003186

Bruce Hineman
Executive Secretary
Teacher Retirement
System of Texas

Effective date: April 25, 1986

Proposal publication date: February 11, 1986
For further information, please call
(512) 397-6478.

★ ★ ★



**TITLE 37. PUBLIC SAFETY
AND CORRECTIONS**

**Part IX. Texas Commission
on Jail Standards**

**Chapter 271. Classification and
Separation of Inmates**

★37 TAC §271.2

The Texas Commission on Jail Standards adopts an amendment to §271.2, without changes to the proposed text published in the February 11, 1986, issue of the *Texas Register* (11 TexReg 795).

Texas Civil Statutes, Article 5115.1, requires the classification of separation of inmates within county jails.

This amendment permits congregation of male and female inmates, when participating in such activities as exercise, education, and church activities, if directly supervised.

Paul Weatherby, Sheriff, Reagan County, and Claudie Kendrick, Sheriff Houston County, commented against the amendment.

The amendment is permissive; county officials, not desiring to utilize the procedure may continue to separate males and females in all activities.

The amendment is adopted under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 27, 1986.

TRD-8003132

Robert O. Viterna
Executive Director
Texas Commission on
Jail Standards

Effective date: April 23, 1986

Proposal publication date: February 11, 1986
For further information, please call
(512) 463-6505.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 14. County Indigent Health Care Program Subchapter B. Determining Eligibility

★ 40 TAC §§14.101-14.109

(Editor's note: The common preamble for these sections begins on page 1730.)

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§14.101. Application Processing.

(a) The applicant for indigent health care or his representative must request an application form by contacting the office designated by the county. If the applicant wants help in completing the form, he may request that eligibility staff assist him.

(b) Eligibility staff must mail or give the Department of Human Services (DHS) application for county medical assistance form to the applicant or his representative on the same day the request is received. Eligibility staff must briefly explain the application process and applicant's responsibilities to the requestor.

(c) The applicant is responsible for correctly filling out the form and providing all needed verification. By signing the form, the applicant swears to the truth of the information supplied. Persons that intentionally misrepresent information to receive benefits they are not entitled to receive:

(1) are responsible for reimbursing the county for the cost of benefits they were ineligible to receive; and

(2) may be subject to prosecution under the Texas Penal Code.

(d) If the applicant requests help in completing the application process, eligibility staff must assist the applicant with correctly filling out the form and getting needed verification. Anyone who helped fill out the form must sign it.

(e) Eligibility staff must accept the application only if it is complete. A completed application must include:

(1) the applicant's full name and address;

(2) the applicant's Social Security number, if available;

(3) the names of all other household members (excluding AFDC or SSI recipients) and their relationship to the applicant;

(4) the applicant's county of residence;

(5) information about medical insurance and hospital or health care benefits received by the listed household members;

(6) the gross monthly income of each listed household member;

(7) information about the assets and property owned by the listed household members and the equity value of any vehicles or property;

(8) the applicant's signature and the date the form is filled out; and

(9) all needed verifications.

(f) Eligibility staff must enter the date the completed application for county medical assistance form is accepted on the form. This date is the application completion date.

(g) Eligibility staff may determine eligibility without interviewing the applicant. Interviews may be face-to-face or by telephone.

(h) Eligibility staff must determine if the applicant is eligible or ineligible within 14 days after the completion date. By the 14th day, eligibility staff must give or send the applicant a notice of his eligibility or denial.

(i) Eligibility staff must consider each eligibility factor and document the basis for the eligibility decision on the DHS eligibility worksheet. After approving an application, eligibility staff must give the client information about the services he is entitled to receive and his rights and responsibilities.

(j) An approved household is entitled to services beginning with:

(1) the earliest date in the month of application that the household meets all eligibility factors and has unpaid medical bills for mandatory services; or

(2) the earliest date in any of the three months before the application month that the household meets all eligibility factors and has unpaid medical bills for mandatory services.

§14.102. Residency.

(a) Applicants must live in the Texas county in which they apply. A person lives in the county if:

(1) his fixed habitation is located in the county; and

(2) he intends to return to the county after any temporary absences.

(b) Persons do not lose their residence status because of temporary absences from the county. No time limits are placed on a person's absence from the county. If a person proves county residency at application, the person remains a county resident until factual evidence proves otherwise.

(c) There are no durational requirements for residency. Persons with no fixed residence or new residents in the county who declare intent to remain in the county and who verify this intent, if questionable, are considered county residents.

(d) Although the following persons may live in the county, eligibility staff must not consider them county residents for the purpose of receiving county health care assistance. They are ineligible for county health care assistance:

(1) persons living in an area served by a public hospital or a hospital district;

(2) inmates and residents of a state or a federal school or correctional facility, and patients in federal institutions;

(3) persons who moved into the county solely for the purpose of obtaining health care assistance; and

(4) minor students primarily supported by their parents whose home residence is in another county or state.

(e) A person cannot qualify for county health care assistance from more than one county simultaneously.

(f) Eligibility staff must verify residency at each application and at case review, if questionable. The person is responsible for proving county residency or intent to live in the county. Proof of residency and intent to live in the county include, but are not limited to:

(1) mail addressed to the applicant, his spouse, or children if they live together;

(2) voting records;

(3) automobile registration;

(4) Texas driver's license or other official identification;

(5) school enrollment records;

(6) property tax receipts;

(7) rent, mortgage payment, and utility receipts; and

(8) other relevant information.

(g) Eligibility staff must document the basis for determining residency on the DHS eligibility worksheet. If residency is questionable, eligibility staff must explain why and list the proofs used to verify residency.

§14.103. Household Determinations.

(a) A county health care assistance household is a person living alone or two or more persons living together who are legally responsible for the support of the other person(s). Disqualified persons are not household members regardless of their legal responsibility for support.

(b) An inmate in a county jail or a non-AFDC foster care child qualifies as a household if the inmate or the child meets all other eligibility criteria.

(c) There is a legal responsibility for support between persons who are legally married, a legal parent and a minor child, or a managing conservator and a minor child.

(d) A minor child is a person under 18 years old who is not or has not been married and has not had the disabilities of minority removed for general purposes.

(e) An adult is a person at least 18 years old or a younger person who is or has been married or had the disabilities of minority removed for general purposes.

(f) The following persons are disqualified from inclusion in the household:

(1) a person who is not considered a county resident for the purpose of receiving county health care assistance as specified in §14.102 of this title (related to Residency);

(2) a person who receives Medicaid, including a person who exhausts his Medicaid benefits.

(g) Eligibility staff must consider the

following persons as a one-person household:

(1) an adult living with others who are not legally responsible for supporting each other;

(2) an adult living alone; or

(3) a minor child living alone or with others who are not responsible for his support.

(h) If the following persons are living together, they form a household group:

(1) two persons legally married to each other;

(2) one or both legal parents and their legal minor children;

(3) a managing conservator and a minor child and the conservator's spouse and other legal minor children, if any; or

(4) minor children who are siblings.

(i) One household may live with another household. Eligibility staff must determine eligibility for each household independently, regardless of household configurations.

(j) Eligibility staff must verify household composition only if it is questionable.

(k) Eligibility staff must document an explanation of the household's composition on the eligibility worksheet. Eligibility staff must also document the basis for establishing separate households. If a household member is disqualified, eligibility staff must document the basis for his disqualification.

§14.104. Income.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Earned income—Income related to employment.

(2) Income—Any type of payment that is a regular and predictable gain or a benefit to a household.

(3) Regular and predictable income—Income that is received in one month, and is either likely to be received in the next month or was received on a regular and predictable basis in past months, or more than the maximum income limit for the household's size. It does not include income that is less than the maximum monthly income standard for the household's size and is either received in only one month or not received on a regular and predictable basis in past months.

(4) Unearned income—Income received without performing work-related activities. It includes benefits from other programs.

(b) General principles. Income is either countable or exempt. Households must pursue and take advantage of all income to which they are legally entitled. Deductions are made from earned income that are not allowed for unearned income. Eligibility staff must consider the income of all household members included in the household group.

(c) Types of income. Eligibility staff

must count or exempt types of income as follows.

(1) Aid to Families with Dependent Children (AFDC) benefits. These benefits are exempted.

(2) Cash contributions. Cash contributions are counted as unearned income, but are exempted if they are irregular and unpredictable.

(3) Child support payments. These payments are counted as unearned income after deducting \$50 from the household's total monthly child support payments.

(4) Child's earned income. A child's earned income is exempted if the child is a full-time student or a part-time student employed less than 30 hours a week.

(5) Disability insurance benefits. These benefits are counted as unearned income.

(6) Disqualified household member's earned and unearned income. This income is exempted.

(7) Dividends and royalties. Dividends and royalties are counted as unearned income.

(8) Educational assistance. This assistance is exempted. These payments include aid from the U.S. Office of Education for undergraduate, vocational, or education courses.

(9) Educational benefits. These benefits are counted as unearned income minus any part of the benefit that is for educational expenses, including tuition, books, fees, transportation, and child care.

(10) Energy assistance. Energy assistance from federally funded, state-administered programs (HEAP, Weatherization, Energy Crisis Intervention) is exempted. Utility supplement payments from the Department of Housing and Urban Development (HUD) or local housing authorities, whether they are in the form of vendor payments, in-kind income, or cash payments, are exempted. Energy assistance from private, nonprofit, or government agencies that make payments based on need is exempted. If an energy assistance payment is combined with other payments, only the energy assistance portion of the payment is exempted.

(11) Foster care payments. These payments are exempted.

(12) Government-sponsored programs. Payments from these programs are counted as unearned income unless the payments are from crisis intervention programs.

(13) In-kind income. In-kind income (any gain or benefit that is not in the form of money payable directly to the household) is exempted.

(14) Interest. Interest is counted as unearned income.

(15) Job training. Payments made under the Job Training Partnership Act of 1982 (JTPA) are exempted.

(16) Loans (noneducational). These loans are counted as unearned income unless

there is an understanding that the money will be repaid, and the client can reasonably explain how he will repay the loan.

(17) Lump-sum payments. These payments are a resource and are not counted as income.

(18) Military pay and allowances. Military pay and allowances for housing, food, base pay, and flight pay are counted as earned income.

(19) Other supplemental job training and training allowance payments.

Job training and training allowance payments from agencies that are for training-related expenses are exempted.

(20) Pensions. Pensions are counted as unearned income.

(21) Retirement, Survivors, and Disability Insurance (RSDI) benefits and other retirement benefits. These benefits are counted as unearned income (exempt the amount deducted from the RSDI check for the Medicare premium and any amount that is being accounted for a prior overpayment).

(22) Reimbursements. Reimbursements, minus the actual expenses, are counted as unearned income.

(23) Royalties. Royalties are counted as unearned income.

(24) Supplemental Security Income (SSI) payments. These payments are exempted.

(25) Self-employment income. Self-employment income (minus business expenses) is counted as earned income. A person is self-employed if he is engaged in an enterprise for gain, either as an independent contractor, franchise holder, or owner-operator. If someone other than the earner withholds either income taxes or FICA from the earner's earnings, the earner is an employee and not self-employed.

(26) Income from property. This income is counted as unearned income, whether from rent, lease, or sale on an installment plan. If the household sells property on an installment plan, the payments are unearned income. The balance of the note is an inaccessible resource. Income from boarding situations is earned income.

(27) Third-party payments. These payments are exempted if the money is intended and used for the maintenance of a nonmember. If a single payment is received for more than one beneficiary, the amount actually used for the nonmember up to the nonmember's identifiable portion or prorated portion, if the portion is not identifiable, is excluded.

(28) Trust funds. Trust fund withdrawals or dividends are counted as unearned income.

(29) Unemployment compensation. Unemployment compensation is counted as unearned income.

(30) Vendor payments. These payments are exempted if made by a person or organization outside the household directly to the household's creditor or person providing the service.

(31) Veterans Administration (VA) benefits. These benefits are counted as unearned income. Benefits that meet a special need are exempted.

(32) Wages, salaries, and commissions. Wages, salaries, and commissions are counted as earned income.

(33) Worker's Compensation. Worker's Compensation is counted as unearned income. Eligibility staff must, however, exempt any reimbursement for a medical bill that the household paid and any deductions for FICA or income taxes.

(34) Unusual types of benefits/payments. Benefits/payments from the following programs are exempted:

(A) programs stipulated in Title II of the amended Domestic Volunteer Service Act of 1973 (Public Law 93-113). Also exempt Volunteers in Service to America payments to volunteers (Title I);

(B) tax exempt portions of payments made under the Alaska Native Claims Settlement Act;

(C) funds distributed or held in trust by the Indian Claims Commission for Indian tribe members under Public Laws 92-254 or 93-135;

(D) Child Nutrition Act of 1966;

(E) National School Lunch Act;

(F) Texas Food Stamp Program;

(G) Nutrition Program for the Elderly (Title III, Older American Act of 1965);

(H) Uniform Relocation Assistance and Real Property Acquisitions Act (Title II);

(I) WIC (Special Supplemental Food Program for Women, Infants, and Children) Program;

(d) Net income test and deductions. The net income test is used to determine eligibility.

(1) Net income test. Net monthly income is gross monthly income minus allowable deductions. A household is eligible if its net income, after rounding down cents, is less than the maximum income limit for the household's size as specified in §14.109 of this title (relating to Monthly Maximum Countable Income Standards). All households must pass the net income test.

(2) Earned income deductions. Eligibility staff must make the following deductions from gross earned income. These deductions must be made in the order listed.

(A) Allow a standard work-related expense deduction of \$75 a month for each employed household member.

(B) Deduct payments for the actual costs for the care of a dependent child or incapacitated adult, if necessary for employment. The maximum dependent care deduction is \$160 per dependent per month. Eligibility staff must verify dependent care if the expense is questionable.

(C) Disregard \$30 and 1/3 of the remaining earned income of each employed household member.

(e) Budgeting.

(1) How to convert income and expenses to monthly amounts. Eligibility staff must convert income received nonmonthly to monthly amounts by:

(A) dividing yearly income by 12;

(B) multiplying weekly income by 4.33;

(C) adding amounts received twice a month; or

(D) multiplying amounts received every other week by 2.17.

(2) How to budget income. Eligibility staff must:

(A) evaluate with the household the household's circumstances and income;

(B) decide if any factors are likely to change in the current or future months; and

(C) determine eligibility based on anticipated income and circumstances, if changes are unlikely. If changes are likely, eligibility staff must determine how the changes will affect eligibility.

(3) How to budget dependent care. Eligibility staff must consider only dependent care expenses that are expected. Eligibility staff may average anticipated expenses, if increases or decreases are expected.

(4) How to budget stepparent income. The policy in this paragraph only applies to family units that include a stepparent, legal parent, and the legal parent's children if the legal parent and his children are Medicaid recipients. Eligibility staff must:

(A) determine the gross amount of the stepparent's earned and unearned income;

(B) deduct from the stepparent's gross income an amount equal to the maximum income limit for the Medicaid household's size as specified in §14.109 of this title (relating to Monthly Maximum Countable Income Standards); and

(C) consider the remainder as the stepparent's countable income to determine the eligibility of his household.

(f) Verification and documentation.

(1) Verification of income. Unless the amount of income reported by the household makes the household ineligible, eligibility staff must verify all countable income at initial application, report of change, and review, if questionable.

(2) Documentation of income. Eligibility staff must document verification and computation of household income on the DHS eligibility worksheet at the initial application, when a change is reported, and at each subsequent application or review. Eligibility staff must record all sources, amounts, dates, and computations.

(a) A household's continuing eligibility for county health care assistance must be redetermined once every six months.

(b) Households must cooperate with eligibility staff in periodically redetermining their eligibility for assistance. A household's failure to cooperate is a basis for denial.

(c) Eligibility staff must send the household an application for county medical assistance form when the case is due for review. Households may return the application for county medical assistance form in person or by mail.

(d) Eligibility staff must assist a household that requests help with completing the application for county medical assistance form or getting required verification.

(e) Eligibility staff must use the DHS eligibility worksheet to document the status of each eligibility factor. The documentation procedures that apply to applications also apply to case reviews.

§14.109. *Monthly Maximum Countable Income Standards.* The following chart contains the maximum countable income standards.

| Family Size | Single Adult and Adult with Children | Couples and Couples with Children | Children Living with Ineligible Adults Who Are Not Legal Parents |
|-------------|--------------------------------------|-----------------------------------|--|
| 1 | \$ 75 | --- | \$ 63 |
| 2 | 158 | \$120 | 90 |
| 3 | 184 | 200 | 126 |
| 4 | 221 | 226 | 151 |
| 5 | 246 | 262 | 194 |
| 6 | 284 | 289 | 210 |
| 7 | 308 | 324 | 261 |

| | | | |
|-----|-----|-----|-----|
| 8 | 351 | 350 | 287 |
| 9 | 377 | 392 | 330 |
| 10 | 420 | 418 | 356 |
| 11 | 446 | 461 | 399 |
| 12* | 488 | 487 | 425 |

***Add \$38 for each additional household member if the household size exceeds 12 persons.**

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986.

TRD-8003169 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986
Proposal publication date: January 21, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter C. Providing Services

★ 40 TAC §§14.201-14.205

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§14.201. Required Services and Their Definitions. Except as specified in §14.202 of this title (relating to Exclusions and Limitations), counties are required to provide the following services to eligible households by reimbursing providers of services who meet the requirements of the Indigent Health Care and Treatment Act, this chapter, and the responsible county.

(1) Inpatient hospital services. Services must be medically necessary and:

- (A) provided in a licensed hospital;
- (B) provided to hospital inpatients;
- (C) provided under the direction of a physician (M.D. or D.O.); and
- (D) provided for diagnosis or treatment.

(2) Outpatient hospital services. Services must be medically necessary and:

- (A) must be diagnostic, therapeutic, rehabilitative, or palliative;
- (B) furnished to hospital outpatients;
- (C) furnished by or under the direction of a physician (M.D. or D.O.); and
- (D) furnished by a licensed hospital facility.

(3) Physician services. Services must be medically necessary and provided by a medical or an osteopathic doctor in the doc-

tor's office, a hospital, a skilled nursing facility, or elsewhere.

(4) Up to three prescriptions for drugs per recipient per month. New and refilled prescriptions count equally towards this total prescription limit. Drugs must be prescribed by a physician or other licensed practitioner within the scope of practice under law.

(5) Skilled nursing facility services. Services must be medically necessary, ordered by a physician, and provided in a licensed, skilled nursing facility that provides daily services on an inpatient basis.

(6) Rural health care clinic services. Primary health care services must be provided in a licensed or an approved rural health clinic by a physician, a physician's assistant, a nurse practitioner, a nurse midwife, or other specialized nurse practitioner.

(7) Family planning services. These are services that enable individuals to limit family size or space their children and to prevent or reduce births out of wedlock.

(8) Laboratory and x-ray services. These are technical laboratory and radiological services ordered and provided by or under the direction of a physician (M.D. or D.O.) in an office or a similar facility other than a hospital outpatient department or clinic. An independent laboratory must be certified.

§14.202. Exclusions and Limitations.

(a) Introduction. This section outlines conditions, limitations, and exclusions relating to the mandatory services.

(b) General exclusions. Mandatory services do not include services and supplies that:

- (1) are not specifically provided by the County Indigent Health Care Program;
- (2) are determined not to be medically necessary;
- (3) are provided to a patient before or after the time period he is eligible for the County Indigent Health Care Program;
- (4) are provided outside the United States;
- (5) are not claimed by the provider within 90 days from the date of service, or 90 days from the date of eligibility if the patient is eligible in one or more of the three months prior to the month of application;
- (6) are provided by a patient's immediate relative or household member;
- (7) are payable by or available under any health, accident, or other in-

surance coverage; by any private or other governmental benefit system; by any legally liable third party; or under other contract;

(8) are provided by military medical facilities, Veterans Administration facilities, or United States public health service hospitals;

(9) are related to any condition covered under the worker's compensation laws;

(c) Specific exclusions. The following specific services or supplies are excluded from mandatory services:

(1) separate payments for services and supplies to an institution that receives a vendor payment or has a reimbursement formula that includes the services and supplies as a part of institutional care;

(2) more than 30 days of inpatient hospital or skilled nursing facility care, or a combination of both, per year;

(3) whole blood or packed red cells available at no cost to the patient;

(4) take-home items and drugs or nonprescribed drugs;

(5) treatment of flatfoot conditions, subluxations of the foot, and routine foot care and hygiene, including cutting or removal of corns, warts, calluses, and nail trimming;

(6) prosthetic or orthotic devices;

(7) recreational therapy;

(8) social and educational counseling;

(9) custodial care (except for skilled nursing facility care);

(10) autopsies;

(11) separate fees for completing or filing a claim under the County Indigent Health Care Program;

(12) services or supplies not reasonable and necessary for diagnosis and/or treatment;

(13) dentures;

(14) prescriptions for and the cost of supportive devices and special shoes;

(15) eyeglasses and examinations for the prescription and fitting of eyeglasses;

(16) hearing aids;

(d) Limited services. The following services and supplies are excluded, unless the specified conditions are met:

(1) immunizations and vaccines unless directly related to the treatment of an injury or direct exposure to a disease;

(2) services or supplies provided in a routine physical examination except in connection with family planning services;

(3) services or supplies provided in

cosmetic surgery, unless they are:

(A) required for the prompt repair of an accidental injury;

(B) required for improvement of the functioning of a malformed body member; or

(C) authorized for specific purposes by the county or its designee before the services or supplies are received;

(4) routine circumcision (unless medically necessary) if a newborn is more than three days old. Circumcision of a newborn is covered during the first three days of his life;

(5) a private inpatient hospital room unless a patient:

(A) has a critical or contagious illness;

(B) is disturbing other patients and this is documented; or

(C) is admitted on an emergency basis and other rooms are not available;

(6) dental care except for the reduction of a jaw fracture or the treatment of an oral infection when a physician determines that a life-threatening situation exists and refers the patient to a dentist;

(7) ambulation aids and other durable medical equipment and supplies, unless they are provided in a hospital setting or a skilled nursing facility;

(8) parenteral hyperalimentation therapy as an outpatient hospital service unless the service is considered medically necessary to sustain life. Coverage does not extend to hyperalimentation administered as a nutritional supplement;

(9) alcohol and drug abuse treatment services, unless provided in an acute care, Title XIX-approved hospital and the hospital admission is medically necessary for the treatment of a physical condition other than alcohol and drug abuse;

(10) alcohol and drug detoxification treatment alone, unless the patient is admitted to an acute care, Title XIX-approved facility, the physician determines the hospital admission is medically necessary, and the hospital stay does not exceed five days.

(e) Psychiatric services limitations.

(1) In-patient psychiatric services are a covered benefit only if provided in an acute care Title XIX-approved hospital.

(2) Any psychiatric services or supplies provided to a patient who is not confined as a bed patient in a hospital cannot exceed \$312.50 during any one calendar year. The county may choose to exceed this limit upon county review of an individual patient's case.

(3) Services of a psychologist must be performed under the supervision/direction of a physician and billed by a physician or a Title XIX-approved hospital to be covered.

(4) Psychiatric services performed by a psychiatric or other nurse, a mental health worker, or a social worker, whether or not provided under the direct supervision of a physician, are excluded.

(f) Hysterectomies. Medically neces-

sary hysterectomies are a covered benefit if a hysterectomy acknowledgment statement, signed by the patient before the surgery, is attached to the bill.

(1) The hysterectomy acknowledgment statement must state that the patient has been informed orally and in writing that the hysterectomy will render the patient unable to bear children.

(2) The request for a hysterectomy acknowledgment statement may be waived only in life-threatening emergency conditions which are clearly documented on the bill.

(3) The hysterectomy acknowledgment statement is not required if the physician documents on the claim form that the patient is previously sterile, postmenopausal, or congenitally unable to bear children.

(g) Abortions. Abortions are not an allowable service unless the attending physician certifies in writing that in his professional judgment the mother's life would be endangered if the fetus is carried to term.

§14.203. Payments for Mandatory Services. This section defines payment standards for mandatory services. State matching funds are not available for payments in excess of the payment standard. If a provider's charge exceeds the payment standard, the county is liable for paying no more than the amount established by the payment standard. The county may negotiate with a provider to pay an amount below the established payment standard. DHS may update the program payment standards annually.

(1) In-patient and outpatient hospital care. The payment standard is the hospital's interim rate for allowable services multiplied by the billed amount. The interim rate is established by the Department of Human Services (DHS) for the Medicaid Program.

(2) Physician, laboratory, and x-ray services. The payment standard for the procedures DHS identifies as the most commonly performed procedures in the Medicaid Program is the average Medicaid payment for the procedure. If providers perform a procedure that DHS has not identified as a common Medicaid procedure, counties may use either the:

(A) amount billed, if the provider certifies in writing that the billed amount is consistent with the amount the provider charges all other patients for the procedure; or

(B) average Medicaid payment for the uncommon procedure. The county must contact DHS for payment information for uncommon procedures.

(3) Prescribed drugs. The reimbursement rate is the redbook wholesale price minus 10%, plus the basic dispensing fee established by DHS.

(4) Family planning clinic services. The reimbursement rate is the current fee established by DHS for the Family Planning Program.

(5) Skilled nursing facility care. The reimbursement rate is the skilled nursing

facility daily rate established by DHS for the Medicaid Program.

(6) Rural health clinic (RHC) services. A payment standard is not established because there are no rural health clinics in Texas. If a county needs to reimburse a RHC in the future, DHS will use existing Medicaid rates.

§14.204. Services and Payment Liability, Limitations, and Options.

(a) This section defines county liability. Counties are liable for payment for mandatory services unless an eligible county resident:

(1) is adequately covered for the services through another public or private health care source. A service is adequately covered if the health care source pays an amount equal to the appropriate payment standard specified in §14.203 of this title (relating to Payments for Mandatory Services). If the health care source pays less than the appropriate payment standard, the county is responsible for the amount remaining up to the payment standard amount;

(2) receives services in a hospital that is out of compliance with a Hill-Burton obligation to provide free services to indigent persons. The county may require the hospital to certify that it is in compliance with its Hill-Burton obligation;

(3) is eligible for Medicaid or Medicare benefits or would be eligible if he applied.

(b) The county is the payor of last resort.

(c) County liability for services and payments is limited to:

(1) payment of no more than \$30,000 in the county fiscal year for mandatory services for an eligible county resident delivered by all providers, including hospitals and skilled nursing facilities;

(2) payment for a total of 30 days (cumulative) in the county fiscal year for hospital and/or skilled nursing facility care, or a combination of both, or a maximum payment of \$30,000 for all mandatory services provided to an eligible county resident, whichever comes first;

(3) 10% of the county's general revenue tax levy, if state assistance funds are not available;

(4) 10% of the county's general revenue tax levy and, if state assistance funds are available, 20% of the expenditures above the 10% GRTL;

(5) payments for mandatory services equivalent to the established payment standard for the service;

(6) payments to providers who certify in writing that:

(A) the service was medically necessary. This applies only to physicians;

(B) the service was ordered by a physician. This applies only to nonphysician providers;

(d) Counties have the option to:

(1) make payments above those pay-

ment standards specified in §14.203 of this title (relating to Payments for Mandatory Services);

(2) provide additional services not specified in §14.201 of this title (relating to Required Services and Their Definitions);

(e) If the county chooses the options contained in subsection (d) of this section, expenditures above the established payment standards or for additional services cannot be credited towards the county's eligibility for the state assistance fund.

(f) Counties have the option to request that an eligible county resident contribute a nominal amount toward the cost of mandatory services. If, however, the resident is unable or unwilling to make the nominal contribution, the county cannot deny eligibility or limit services. Counties that select this option must define the nominal amount.

§14.205. Providers.

(a) County health care providers. Counties may arrange for health care services through local health departments, other public health care facilities, private providers, or insurance companies. Counties may also affiliate with other governmental entities, public hospitals, or hospital districts for administration and delivery of health care services. Out-of-county providers are permitted. Counties may also select one or more mandated providers. A mandated provider is a health care provider, selected by the county, who agrees to provide health care services to eligible residents. Counties may require eligible residents to obtain health care services from a mandated provider except in emergency situations, when medically inappropriate, or when the health care needed is not available through the mandated provider.

(b) Provider requirements. Providers who do not comply with the requirements established in this subsection are not entitled to payment for services from an eligible patient's county of residence.

(1) Mandated provider requirements. Mandated providers who deliver or will deliver health care services to an eligible patient:

(A) may deliver emergency services without obtaining county approval;

(B) must receive approval from the county before providing nonemergency services if prior approval is required by the county.

(2) Nonmandated provider requirements.

(A) Nonmandated providers who deliver or will deliver health care services to a patient who may be eligible must:

(i) determine the patient's county of residence as soon as possible;

(ii) notify the county judge in the presumed county of residence, as soon as possible, by telephone, of any services that have or will be provided. If delivering non-emergency services, the provider must determine if the county has a mandated provider and transfer the patient to the mandated pro-

vider at the county's request, unless it is medically inappropriate to do so;

(iii) notify the patient's presumed county of residence in writing by mail postmarked no later than three workdays from the date residency is determined;

(iv) cooperate, in emergency service situations, with the presumed county of residence, the patient, and the patient's family in determining whether the patient is an eligible county resident.

(B) The county must determine eligibility for nonemergency services within 14 days from the date the county receives a completed application and promptly notify the provider of the eligibility decision. The county must determine eligibility for emergency services no later than the 14th day after the patient's county of residence receives notification and any available information. The county may deny eligibility on the 14th day if the information received is insufficient for determining eligibility, and must promptly notify the provider of the eligibility decision. If the county does not determine eligibility within the 14-day period, the patient is considered eligible and the provider is entitled to reimbursement for services under the policies contained in this subchapter.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603170

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986

Proposal publication date: January 21, 1986
For further information, please call
(512) 450-3766.

★

★

★

Subchapter D. Case Management

★40 TAC §14.301, §14.302

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603171

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986

Proposal publication date: January 21, 1986
For further information, please call
(512) 450-3766.

Chapter 47. Primary Home Care

Claims Payment

★40 TAC §47.3901

The Texas Department of Human Services adopts an amendment to §47.3901, without changes to the proposed text published in the February 11, 1986, issue of the *Texas Register* (11 TexReg 795).

The justification for the amendment is that it requires that claims from contract agencies be received in the department's Fiscal Division within 95 days of the end of the service month. Current policy requires claims to be postmarked within 90 days. This policy has been difficult to apply because of such problems as illegibly postmarked dates.

The section will function to expedite the claim payment process.

No comments were received regarding the adoption.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603183

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986

Proposal publication date: February 11, 1986
For further information, please call
(512) 450-3766.

★

★

★

Chapter 48. CCAD

Contracting for CCAD Services

★40 TAC §48.5909

The Texas Department of Human Services adopts new §48.5909, without changes to the proposed text published in the February 11, 1986, issue of the *Texas Register* (11 TexReg 796).

The new section requires that claims from contract agencies be received in the department's Fiscal Division within 95 days of the end of the service month. Current policy requires claims to be postmarked within 90 days. This policy has been difficult to apply because of such problems as illegibly postmarked dates.

The new section expedites the claim payment process.

No comments were received regarding adoption of the new section.

The section is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603166

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986

Proposal publication date: February 11, 1986

For further information, please call
(512) 450-3786.

★ ★ ★

Chapter 50. Day Activity and Health Services

Provider Eligibility

★ 40 TAC §50.2903

The Texas Department of Human Services adopts an amendment to §50.2903, with changes to the proposed text published in the February 11, 1986, issue of the *Texas Register* (11 TexReg 796).

The 95-day requirement has been included in subsection (a)(1) to ensure the consistency of the policy. In addition, the reference to the purchased service delivery report has been deleted to conform with current administrative procedures.

The justification for the amendment is that it requires that claims from contract agencies be received in the department's Fiscal Division within 95 days of the end of the service month. Current policy requires claims to be postmarked within 90 days. This policy has been difficult to apply because of such problems as illegibly postmarked dates.

The section will function to expedite the claim payment process.

No comments were received regarding the adoption.

The section is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§50.2903. Claims Processing.

(a) Billing. The provider agency must file claims for services using the community care purchased services delivery report. The provider agency must submit a purchase voucher with each claim. The normal sequence of events for a DAHS claim is as follows.

(1) The community care purchased service delivery report is submitted each month by each facility. The report and a purchase voucher must be received by DHS within 95 days of the date the service is provided.

(2)-(4) (No change.)

(b) (No change.)

(c) Reasons for claims denial. The department may not process or pay provider agency claims for any of the following reasons:

(1) initial claim is not received in state office Fiscal Division within 95 days of the end of the service month.

(2)-(4) (No change.)

(d) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on April 4, 1986.

TRD-8603167

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: May 1, 1986

Proposal publication date: February 11, 1986

For further information, please call
(512) 450-3786.

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

Texas Aeronautics Commission

Wednesday, April 16, 1986, 11:30 a.m. The Texas Aeronautics Commission will meet in the Wine Room, Wyndham Southpark Hotel, 4140 Governor's Row, Austin. According to the agenda summary, the commission will have lunch and may discuss items on the commission meeting agenda schedule for 1:30 p.m., April 16, 1986.

Contact: Chester S. Beattie, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: April 4, 1986, 9:07 a.m.
TRD-8603165

Wednesday, April 16, 1986, 1:30 p.m. The Texas Aeronautics Commission made a revision to the agenda for a meeting to be held in Room 221, 410 East Fifth Street, Austin. The revision includes consideration for approval of financial assistance to the following: San Marcos, Seymour, Lockhart, Nacogdoches, Zapata County (Zapata), Smithville, Starr County (Rio Grande City), McGregor, Chambers County (Winnie), Georgetown, Giddings/Lee County, Dilley, Hallettsville, Athens, Hardin County (Kountze-Silsbee), Llano, Jasper County (Jasper), El Paso County (Fabens), San Saba/San Saba County, Gruver, Kent County (Jayton), Dumas/Moore County, Gaines County (Seminole), Pleasanton, Orange County (Orange), Cameron, Edwards County (Rocksprings), and Dimmitt County (Carrizo Springs); and approval of a proposed loan to Giddings/Lee County.

Contact: Chester S. Beattie, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: April 4, 1986, 2:36 p.m.
TRD-8603232

Wednesday, April 16, 1986, 1:30 p.m. The Texas Aeronautics Commission will meet in Room 221, 410 East Fifth Street, Austin. According to the agenda summary, the commission will review the air carrier administration report; the staff attorney's report; the aviation facilities development report; proposed needs assessment for budget submis-

sion of fiscal year 1988-1989; and the director's report.

Contact: Chester S. Beattie, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Filed: April 4, 1986, 9:07 a.m.
TRD-8603164

★ ★ ★

Texas Commission on Alcohol and Drug Abuse

Tuesday, April 8, 1986, 1 p.m. The Texas Commission on Alcohol and Drug Abuse made an emergency addition to the agenda for the meeting held in the Conference Room, 1705 Guadalupe, Austin. The addition concerned nominations for gubernatorial appointment to Senate Bill 601 Task Force. The emergency status was necessary because at the request of the Governor's office, the commission needed to provide additional names as nominees for the Senate Bill 601 Task Force mandated by Texas Civil Statutes, Article 5561c-2, prior to its next regularly scheduled meeting.

Contact: Becky Davis, 1705 Guadalupe, Austin, Texas 78701, (512) 463-5511.

Filed: April 7, 1986, 2:21 p.m.
TRD-8603306



Texas Commission on the Arts

Wednesday, April 23, 1986, 9 a.m. The Texas Commission on the Arts will meet in the Education Room, 3011 North Third Street, Temple. According to the agenda summary, the commission will introduce guests; conduct a public hearing; review consent agenda; items for individual consideration; and informational items. The commis-

sion also will meet in executive session pursuant to Texas Civil Statutes, Article 6252m(s)(g), to consider the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, if necessary.

Contact: A. Patrice Walker, Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: April 7, 1986, 4:38 p.m.
TRD-8603327

★ ★ ★

State Bar of Texas

Friday and Saturday, April 11 and 12, 1986, 9 a.m. daily. The Board of Directors of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Austin. Items on the agenda summary include the election of the chairman of the board; ratification of actions of the Executive Committee; the reports of the president; discussion of budgetary matters; reports of the executive director, president-elect; the immediate past president, supreme court liaison, general counsel, the TYLA president, judicial section liaison, the federal court liaison; reports of the board committees, the report on IRS matter; the appearance of representatives from Immigration and Nationality Committee; the report from the Committee on State Legislation in Public Interest; an update on the Texas Lawyers Care; an update on law focused education; the report from the law center task force; the report from the Special Committee on TDC criminally accused; the report on the 1986 convention; the report of the law student division; and reports from the standing committees.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1401.

Filed: April 3, 1986, 3:30 p.m.
TRD-8603149

★ ★ ★

Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Thursday, April 17, 1986, 10 a.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in the Austin Room, Executel Motor Inn, 925 East Anderson Lane, Austin. According to the agenda, the committee will introduce visitors; accept minutes of the January 30, 1986, meeting; discuss the attorney general opinion; new products and services including plastic poly bushel laundry trucks, safety vests, and new service contracts and renewals; price revisions including bookcases, computer tables, telephone stands, pens, and safety vests; and old business including polyethylene bags.

Contact: Ron P. Mansolo, P.O. Box 12866, Austin, Texas 78711, (512) 475-6731.

Filed: April 7, 1986, 11:55 a.m.
TRD-8603294

★ ★ ★

Texas Conservation Foundation

Friday, April 11, 1986, 8 a.m. The Texas Conservation Foundation Board will meet in emergency session in the Lieutenant Governor's Reception Room, Capitol Building, Austin. According to the agenda, the board will review the executive director's report; consider the status of the advisory committee; and the lakeshore cleanup. The board also will meet in executive session to discuss real estate transactions. The emergency status is necessary in order to accommodate the schedule of a board meeting.

Contact: M. J. Hutchinson, Room 611, Stephen F. Austin Building, Austin, Texas 78701, (512) 463-2196.

Filed: April 7, 1986, 9:56 a.m.
TRD-8603295

★ ★ ★

Texas Commission for the Deaf

Saturday, April 19, 1986, 9 a.m. The Texas Commission for the Deaf will meet in Room 103, 1400 College Drive, Waco. According to the agenda, the commission will approve previous minutes; elect a vice-chairperson and secretary; consider the budget cutback as requested by Governor White; proposed rules; the BEI report; the executive director and staff reports; public comments; personnel matters; the chairperson's report; and a public hearing. The commission also will meet in executive session if necessary.

Contact: Fred Tammen, P.O. Box 12904, Austin, Texas 78711, (512) 475-2492.

Filed: April 4, 1986, 2:21 p.m.
TRD-8603244

★ ★ ★

Coordinating Board Texas College and University System

Thursday, April 24, 1986. Committees of the Coordinating Board, Texas College and University System will meet in the boardroom, 200 East Riverside Drive, Austin. Times, committees, and agendas follow.

9:30 a.m. The Financial Planning Committee will consider matters relating to financial planning and administration.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:27 p.m.
TRD-8603325

10 a.m. The Senior College and University Committee will consider matters relating to senior colleges and universities; and matters relating to nonexempt private degree-granting institutions operating in Texas.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:26 p.m.
TRD-8603326

10:30 a.m. The Campus Planning Committee will consider matters relating to facilities and campus planning.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:31 p.m.
TRD-8603324

11:30 a.m. The Health Affairs Committee will consider matters relating to health affairs.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:31 p.m.
TRD-8603323

1:15 p.m. The Student Services Committee will consider matters relating to student services.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:32 p.m.
TRD-8603321

1:30 p.m. The Community Colleges and Technical Institutes Committee will consider matters relating to community junior colleges and technical institutes.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:32 p.m.
TRD-8603310

Friday, April 25, 1986, 9 a.m. The Coordinating Board of the Texas College and University System will meet in the boardroom, 200 East Riverside Drive, Austin. According to the agenda summary, the board will consider matters relating to the Committee on Financial Planning and Administration; the Committee on Health Affairs; the

Committee on Community Junior Colleges and Technical Institutes; the Committee on Student Services; the Committee on Facilities and Campus Planning; and the Committee on Senior Colleges and Universities.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas, 78711, (512) 462-6400.

Filed: April 7, 1986, 2:32 p.m.
TRD-8603309

★ ★ ★

Texas Commission on Economy and Efficiency in State Government

Tuesday, April 15, 1986, 3 p.m. The Personnel Committee of the Texas Commission on Economy and Efficiency in State Government will meet in Room 102, John-H. Reagan Building, Austin. According to the agenda, the Committee will review state personnel information; state personnel study topics; determine the method of study and meeting schedule; and review any other subjects that might be raised by committee members directly related to committee assignments.

Contact: Clarence Glass, P.O. Box 12128, Austin, Texas 78711, (512) 463-1260.

Filed: April 7, 1986, 2:58 p.m.
TRD-8603311

Wednesday, April 16, 1986, 2 p.m. The Budget and Finance Task Force of the Texas Commission on Economy and Efficiency in State Government will meet in Room 101, John H. Reagan Building, Austin. According to the agenda, the task force will hold an organizational meeting.

Contact: Jess M. Irwin, Jr., P.O. Box 12128, Austin, Texas 78711, (512) 463-1159.

Filed: April 7, 1986, 2:58 p.m.
TRD-8603312

★ ★ ★

Texas Education Agency

Friday, April 11, 1986. Committees of the Texas Education Agency of the State Board of Education will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Times, rooms, committees, and agendas follow.

8:30 a.m. In Room 1-109, the Committee for Personnel will consider alternative certification of teachers; classes of certificates; teacher certification; the process for districts to follow to employ individuals who perform unsuccessfully on the Texas Examination of Current Administrators and Teachers; inservice education; the Commission on Standards for the Teaching Profession; the appraisal of certified personnel; the Texas teacher appraisal system; the passing standard for appraiser certification; advanced academic training; the training for school

board members; the Texas examination of current administrators and teachers; the improvement of the student performance on the pre-professional skills test; and the Houston Independent School District alternative teacher certification plan.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701 (512) 463-8985.

Filed: April 3, 1986, 2:34 p.m.
TRD-8603139

8:30 a.m. In Room 1-111, the Committee for Finance and Programs will consider the permanent school fund; the guarantee program for school district bonds; proprietary schools; the education service centers; vocational education; the school district annual performance report; budgeting, accounting, and auditing; textbooks; the 1986 State Textbook Committee; the Governor's Chapter 2 Advisory Committee; the vocational education projects; Apprenticeship and Training Advisory Committee; Title VII Elementary and Secondary Education Act funds; the Emergency Immigration Education Act; the long range master plan for vocational education; the state textbook program; and the financial accounting manual.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701 (512) 463-8985.

Filed: April 3, 1986, 2:35 p.m.
TRD-8603138

8:30 a.m. In Room 1-104, the Committee for Students will consider the discipline management programs; the suspension of incorrigible pupils; compulsory student attendance; general educational development; the advanced placement examinations; the list of achievement tests for advanced placement examinations; curriculum; the pricing structure for learning systems called for Textbook Proclamation 63; the University Interscholastic League; promotion, retention, and alternatives to social promotion; alternative transcripts and high school graduation requirements; the school health services plan; the bilingual programs in Texas; and the gifted and talented education program.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701 (512) 463-8985.

Filed: April 3, 1986, 2:35 p.m.
TRD-8603137

2 p.m. In Room 1-110, the Committee for Long-Range Planning will consider the state plan for regional education service centers; the modification of procedures for reporting accreditation results to local school districts and to the State Board of Education; the status report on waiver request for pre-kindergarten and maximum class size of 22; the status report on the accreditation of school districts; the scheduling of work session for the Long-Range Planning Committee; the advice to the commissioner of education on quality indicators for accrediting groups.

Contact: W. N. Kirby, 1701 North Congress

Avenue, Austin, Texas 78701 (512) 463-8985.

Filed: April 3, 1986, 2:36 p.m.
TRD-8603136

Saturday, April 12, 1986, 8:30 a.m. The Texas Education Agency of the State Board of Education will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. Items on the agenda summary include the examination for certification of educators in Texas; the permanent school fund; the school district bonds; proprietary schools; the education service center; vocational education; the school district performance report; budgeting, accounting, and auditing; textbooks; the Textbook Committee; apprenticeship and training; Elementary and Secondary Education Act; the Immigration Education Act; discipline management; incorrigible pupils; compulsory student attendance; general education development; advanced placement examinations; curriculum; learning systems; the University Interscholastic League; the teacher certification; Texas examination of current administrators and teachers; inservice education; the Commission on Standards for the Teaching Profession; appraiser certification; advanced academic training; the training for school board members; and agency administration.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701 (512) 463-8985.

Filed: April 3, 1986, 2:36 p.m.
TRD-8603135

★ ★ ★

Texas Employment Commission

Tuesday, April 15, 1986, 8:30 a.m. The Texas Employment Commission will meet in Room 644, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; internal procedures of commission appeals; higher level appeals in unemployment compensation cases on Commission Docket 15; and set the date of the next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: April 7, 1986, 2:01 p.m.
TRD-8603305

★ ★ ★

Texas Department of Health

Friday, April 11, 1986. Committees of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Austin. Times, rooms, committees, and agendas follow.

2 p.m. In Room T-709, the Public Relations Committee will formulate a mission statement and establish goals and procedures.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7777.

Filed: April 3, 1986, 4:13 p.m.
TRD-8603157

3 p.m. In Room G-107, the Environmental Health Committee will discuss committee responsibilities and pertinent issues.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7777.

Filed: April 3, 1986, 4:13 p.m.
TRD-8603158

5 p.m. In Room G-108, the Budget Committee will discuss departmental budget matters.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7777.

Filed: April 3, 1986, 4:13 p.m.
TRD-8603159

Saturday, April 12, 1986. Committees of the Texas Department of Health will meet at 1100 West 49th Street, Austin. Times, rooms, committees, and agendas follow.

7:30 a.m. In Room G-108, the Nursing Homes Committee will discuss the proposed rules on trust funds for the use by a trustee in a nursing home or related facility and administrative penalties.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7777.

Filed: April 4, 1986, 4:30 p.m.
TRD-8603252

8 a.m. In Room G-107, the Alternate Care Committee will review proposed amendments to rules concerning athletic trainers; proposed new rules concerning licensing of ambulatory surgical centers; the proposed new rules concerning licensing of birthing centers; and the adoption of final rules concerning annual reporting and licensing of abortion facilities.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7777.

Filed: April 4, 1986, 4:40 p.m.
TRD-8603251

8:30 a.m. In Room T-604, the Personnel Committee will discuss appointments to the Crippled Children's Cardiovascular Advisory Committee.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7777.

Filed: April 4, 1986, 4:29 p.m.
TRD-8603250

8:30 a.m. In Room G-107, the Legislative Committee will discuss previously proposed legislation and the Special Health Services Associateship legislative needs.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7777.

Filed: April 4, 1986, 4:29 p.m.
TRD-8603249

9 a.m. In Room G-108, the Crippled Children's Services Committee will discuss the proposed amendments to existing rules concerning the crippled children's program.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7777.

Filed: April 4, 1986, 4:29 p.m.
TRD-8603248

9:30 a.m. In Room T-610, the Texas Board of Health will approve minutes of the last meeting; discuss the commissioner's report; resolutions; the rules covering informal hearings; the crippled children's program athletic trainers; the ambulatory surgical centers; birthing centers; abortion facilities; nursing homes; professional counselors; retail raw milk; industrial radiography; radiation; sludges and similar wastes; solid waste management; hazard communication; occupational safety; Environmental, Legislative, Budget, and Personnel Committee reports; announcements and comments requiring no board action; and set the next meeting date. The board also will meet in executive session.

Contact: Gina Shaw, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7777.

Filed: April 4, 1986, 4:12 p.m.
TRD-8603247

★ ★ ★

Texas Historical Commission

Friday, April 25, 1986, 8 a.m. The Main Street Committee of the Texas Historical Commission will meet at 3702 Balcones Woods Drive, Austin. According to the agenda, the committee will discuss the 1987 budget; and the 1987 program of work.

Contact: Anice Read, P.O. Box 12276, Austin, Texas 78711, (512) 463-6092.

Filed: April 7, 1986, 2:11 p.m.
TRD-8603328

★ ★ ★

Texas Housing Agency

Tuesday, April 15, 1986, 9 a.m. The Finance and Audit Committee of the Texas Housing Agency will meet in Suite 700, 413 West 13th Street, Austin. According to the agenda summary, the committee will consider a presentation by the agency's senior manager; a report from the executive administrator regarding the agency's relationship with MGIC; the agency's investment policy; payback to the State of Texas; the revised budget; financial advisory services; accounting policy changes; financing of the project for the elderly; a report on computer conversion; advisor evaluations; and various administrative activities; The committee also will meet in executive session to discuss agency personnel evaluations.

Contact: Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: April 7, 1986, 2:44 p.m.
TRD-8603308

★ ★ ★

University of Houston System

Tuesday, April 8, 1986, 9 a.m. The Board of Regents of the University of Houston System met in the Special Collections Room, Neumann Library, Bayou Building, University of Houston, Clear Lake. According to the agenda summary, the board discussed the minutes; the consent docket; honorary degrees; resolutions; reports; the award of contract; the child care center expansion; the Art Acquisition Committee; the acquisition of real property; the coach emeriti appointment; the investment and auxiliary enterprises report and recommendations; the regental policy report and recommendations; the finance and audit report and recommendations; the external affairs report and recommendations; the facilities planning and building report and recommendations; the academic affairs and campus relations report and recommendations; and the election of board officers.

Contact: Michael T. Johnson, Suite 500, 4600 Gulf Freeway, Houston, Texas 77023, (713) 749-7545.

Filed: April 4, 1986, 11:54 a.m.
TRD-8603203

★ ★ ★

Texas Indian Commission

Monday and Tuesday, April 21 and 22, 1986, 10 a.m. and 8 a.m., respectively. The Texas Indian Commission will meet in the conference room, State Board of Pardons and Paroles Building, 8610 Shoal Creek Boulevard, Austin. Items on the agenda summary include approval of minutes of the previous meeting; the Yselta del Sur Pueblo (Tigua Indian Reservation); the Alabama-Coushatta Indian Reservation; the Texas band of Kickapoo Indians; the Indian organizations and inter-tribal groups; commission administration; and commissioners comments.

Contact: Joan Wilson, 8705 Shoal Creek Boulevard, #214, Austin, Texas 78758, (512) 458-1203.

Filed: April 3, 1986, 1:58 p.m.
TRD-8603150

★ ★ ★

State Board of Insurance

Friday, April 4, 1986, 11 a.m. The State Board of Insurance met in emergency session in Room 414, State Insurance Building,

1110 San Jacinto Street, Austin. According to the agenda, the board considered the adoption of emergency amendment to §11.204 of the Health Maintenance Organization rules concerning contents of the application for certificate of authority. The amendment is needed to permit existing HMOs and HMO applicants to comply with the requirement of the Insurance Code, Article 20A.30, for a fidelity bond on the officers and employees of the HMO. The emergency status was necessary because of the lack of availability of required fidelity bonds under present rules.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: April 3, 1986, 4:34 p.m.
TRD-8603160

Tuesday, April 8, 1986, 10 a.m. The State Board of Insurance made an emergency addition to the agenda for a meeting held in Room 414, 1110 San Jacinto Street, Austin. The addition concerned instruction for the 1988-1989 appropriations request. The emergency status was necessary because of the guidelines prescribed by the legislative budget board and the governor's office for submitting appropriations request.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701, (512) 463-6328.

Filed: April 4, 1986, 9:01 a.m.
TRD-8603163

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. Days, times, dockets, and agendas follow.

Tuesday, April 15, 1986, 1:30 p.m. The section will consider Docket 9229—application for approval of amendments to the articles of incorporation of Renaissance Insurance Company, Farmers Branch.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: April 7, 1986, 1:20 p.m.
TRD-8603304

Wednesday, April 16, 1986, 9 a.m. The section will consider Docket 9207—whether disciplinary action should be taken against Johnson and Higgins of Texas, Inc., Houston, who holds a managing general agent's license issued by the State Board of Insurance regarding issuance and delivery of Comprehensive Automobile Liability Insurance Policy F2F5140 dated on or about September 25, 1982, of American Manufacturers Mutual Insurance Company to Houston Distributing Company, Inc., of Houston, which failed to comply with the Texas Insurance Code, the rules and rates governing the insurance of Automobile and Standard Endorsements II, and the Texas Standard Provisions for Automobile Policies, October 1, 1974 edition.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: April 7, 1986, 1:20 p.m.
TRD-8603303

Wednesday, April 16, 1986, 1:30 p.m. The section will consider Docket 9236—whether the application of Charles Glen Johnson, Houston, for a Group I, legal reserve life insurance agents license should be issued by the State Board of Insurance.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: April 7, 1986, 1:21 p.m.
TRD-8603302

Thursday, April 17, 1986, 1:30 p.m. The section will consider Docket 9237—whether the application of Donald Glen Harris, Humble, for a Group I, legal reserve life insurance agent's license and for a temporary property and casualty local recording agent's license.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: April 7, 1986, 1:21 p.m.
TRD-8603301

Friday, April 18, 1986, 9 a.m. The section will consider Docket 9197—whether disciplinary action should be taken against Johnson and Higgins of Texas, Inc., Houston, who holds a managing general agent's license issued by the state board of insurance regarding issuance and delivery of Workers' Compensation and Employer's Liability Policy 2CM 808 181 of American Motorists Insurance Company to Houston Distributing Company, Inc., of Houston, which failed to comply with Texas Insurance Code, and the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability Insurance.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: April 7, 1986, 1:21 p.m.
TRD-8603300

Tuesday, April 22, 1986, 9 a.m. The section will consider Docket 9242—whether disciplinary action should be taken against Charles Robert Morgan, Newton, who holds a Group II, life, health, and accident insurance agent's license issued by the State Board of Insurance.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: April 7, 1986, 1:21 p.m.
TRD-8603299

Thursday, April 24, 1986, 9 a.m. The section will consider Docket 9244—whether disciplinary action should be taken against

Larry Vaughn, doing business as Vaughn and Associates General Agency, Tyler, who holds a managing general agent's license issued by the State Board of Insurance.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: April 7, 1986, 1:21 p.m.
TRD-8603298

Monday, April 28, 1986, 1:30 p.m. The section will consider Docket 9243—whether disciplinary action should be taken against Miguel Luis Garcia, Midland, who holds a Group I, legal reserve life insurance agent's license, Group II, life, health, and accident insurance agent's license and local recording agent's license issued by the State Board of Insurance.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: April 7, 1986, 1:22 p.m.
TRD-8603296

Monday, April 28, 1986, 1:30 p.m. The section will consider Docket 9247—whether disciplinary action should be taken against James H. Coleman, Kingwood, who holds a Group I, legal reserve life insurance agent's license.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: April 7, 1986, 1:22 p.m.
TRD-8603297

★ ★ ★

Texas Department of Labor and Standards

Thursday, April 17, 1986, 9 a.m. The Labor, Licensing, and Enforcement Division of the Texas Department of Labor and Standards will meet in Suite 700, 1001 Texas Street, Houston. According to the agenda, the division will discuss wage complaint violations.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3127.

Filed: April 7, 1986, 3 p.m.
TRD-8603314

Tuesday, April 22, 1986, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, 920 Colorado Street, Austin. According to the agenda, the division will review license and registration; and suspensions and alleged violations of various rules and regulations of the department regarding the contested hearing of Austin Housing Corporation.

Contact: Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3127.

Filed: April 7, 1986, 3 p.m.
TRD-8603313

Lamar University System

Monday, April 7, 1986. Committees of the Board of Regents of the Lamar University System met in the Map Room, John Gray Institute, 855 Florida Avenue, Beaumont. Times, committees, and agendas follow.

10:15 a.m. The Academic Affairs Committee met in emergency session to consider Lamar-Beaumont: credit for remedial courses; guidelines for time-shortened courses; and Lamar-Orange: the discontinuance of the drafting program. The meeting was rescheduled from April 7, 1986, 1:15 p.m. The emergency status was necessary because the time and place was changed in order to obtain a quorum.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas, 77710, (409) 880-2304.

Filed: April 4, 1986, 11:57 a.m.
TRD-8603199

10:30 a.m. The Finance/Audit Committee considered Lamar-System: approval of February 1986 monthly financial operations report for Lamar-Beaumont, Orange, Port Arthur, John Gray Institute, and the office of the chancellor; Lamar-Beaumont: approval of loan agreement with the Department of Education for the renovation of dormitories; Lamar-Orange: approval of a request to appoint an agency to assist in the collection of unpaid student loans and installment payments; an application to the United States Department of Education Office of Postsecondary Education for Institutional Eligibility for campus-based student financial aid funding; and Lamar-Port Arthur: an application to the United States Department of Education Office of Postsecondary Education for Institutional Eligibility for campus-based student financial aid funding. The committee also met in executive session. The meeting was rescheduled from April 7, 1986, 1:30 p.m.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas, 77710, (409) 880-2304.

Filed: April 4, 1986, 11:57 a.m.
TRD-8603204

10:45 a.m. The Buildings and Grounds Committee considered Lamar-Beaumont: a property acquisition; Lamar-Port Arthur: bids and awarding a contract to re-roof Gates Memorial Library; and building renovations to Gates Memorial Library. The committee also met in executive session. The meeting was rescheduled from April 7, 1986, 1:45 p.m.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas, 77710, (409) 880-2304.

Filed: April 4, 1986, 11:55 a.m.
TRD-8603203

11 a.m. The Personnel Committee met in executive session to consider approval of the

Regents' Professor Awards/Merit Awards for Lamar-Beaumont; and to consider approval of Regents' Merit Awards for Lamar-Port Arthur. The meeting was rescheduled from April 7, 1986, 2 p.m.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas, 77710, (409) 880-2304.

Filed: April 4, 1986, 11:54 a.m.
TRD-8603201

1:15 p.m. The Board of Regents made a revision to the agenda concerning the discussion of appointment of the executive officer of the Lamar University System as may be necessary; approval of minutes; approval of committee recommendations from the Academic Affairs Committee, the Finance/Audit Committee, the Buildings and Grounds Committee, and the Personnel Committee. The board also met in executive session for discussion and action fixing the term of office, including but not limited to retirement and/or resignation, setting the salary, and defining the duties of the chancellor of the Lamar University System (Education Code, §108.14).

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas, 77710, (409) 880-2304.

Filed: April 4, 1986, 11:54 a.m.
TRD-8603200

Monday, April 7, 1986, 1:15 p.m. Committees of the Board of Regents of Lamar University System met in the Lamar Room, Gray Library, Lamar University, Beaumont. Times, committees, and agendas follow.

1:15 p.m. The Academic Affairs Committee considered Lamar-Beaumont; the policy regarding credit for remedial courses, the guidelines for time-shortened courses; Lamar-Orange: discontinuance of drafting program.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: April 3, 1986, 1:51 p.m.
TRD-8603143

1:30 p.m. The Finance/Audit Committee considered Lamar-System: the approval of the February 1986 monthly financial operations report for Lamar-Beaumont, Orange, Port Arthur, John Gray Institute, and office of the chancellor; Lamar-Beaumont: approval of loan agreement with the Department of Education for renovation of dormitories; Lamar-Orange: approval of the request to appoint agency to assist in collection of unpaid student loans and installment payments, the application to the United States Department of Education Office of Postsecondary Education for Institutional Eligibility for campus-based student financial aid funding. Lamar-Port Arthur: the application to United States Department of Education Office of Postsecondary Educa-

tion for Institutional Eligibility for campus-based student financial aid funding. The committee also will meet in executive session.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: April 3, 1986, 1:51 p.m.
TRD-8603142

1:45 p.m. The Buildings and Grounds Committee considered Lamar-Beaumont: property acquisition; Lamar-Port Arthur: bids and award contract to re-roof Gates Memorial Library, and building renovation to Gates Memorial Library. The committee also met in executive.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: April 3, 1986, 1:50 p.m.
TRD-8603141

2 p.m. The Personnel Committee met in executive session to consider approval of the Regents' Professor Awards/Merit Awards for Lamar-Beaumont and considered approval of Regents' Merit Awards for Lamar-Port Arthur.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: April 3, 1986, 1:50 p.m.
TRD-8603140

Thursday, April 10, 1986, 1:15 p.m. The Board of Regents of the Lamar University System met in the Spindletop Room, Lamar Library, Lamar University, Beaumont. According to the agenda, the board considered the chancellor's report and announcements; the approval of minutes; the approval of the Academic Affairs Committee recommendations, the Finance/Audit Committee recommendations, the Buildings and Grounds Committee recommendations, the Personnel Committee recommendations, and the Development/Public Relations Committee recommendations. The board also met in executive session.

Contact: Dr. George McLaughlin, P.O. Box 11915, Beaumont, Texas 77710, (409) 880-2304.

Filed: April 3, 1986, 1:52 p.m.
TRD-8603144

★ ★ ★

Legislative Education Board

Friday, April 18, 1986, 9:30 a.m. The Legislative Education Board will meet in Room 310, Capitol Building, Austin. According to the agenda summary, the board will consider remarks by the chairman of the State Board of Education; overview of the teacher appraisal system and appraiser training; the status report on school district

discipline management programs; effects of the Gramm-Rudman-Hollings Bill on Texas public schools; state activities to aid districts in locating qualified teachers and administrators; and other business.

Contact: Nancy Frank, State Capitol, Austin, Texas 78711, (512) 463-0010.

Filed: April 7, 1986, 10:55 a.m.
TRD-8603286

★ ★ ★

Texas State Board of Medical Examiners

Saturday, April 12, 1986, 10 a.m. The Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Austin. According to the agenda, the board will discuss the disciplinary process including review procedures and recommendations regarding possible changes; and a petition for rehearing of a previous disciplinary case. The board also will meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §§2.07, 3.05(d), 5.06(e)(1), 4.05(d), and Attorney General Opinion 1974, No. H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 4, 1986, 3 p.m.
TRD-8603234

Thursday, April 24, 1986, 10 a.m. The Finance Committee of the Texas State Board of Medical Examiners will meet in Suite 201, 1101 Camino LaCosta, Austin. According to the agenda, the committee will discuss future budgetary needs and projections. The committee also will meet in executive session under the authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §§2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion 1974, H-484.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: April 4, 1986, 3:36 p.m.
TRD-8603236

★ ★ ★

Board of Pardons and Paroles

Monday-Friday, April 14-18, 1986, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: April 4, 1986, 11:07 a.m.
TRD-8603193

Tuesday, April 15, 1986, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: April 4, 1986, 11:07 a.m.
TRD-8603194

★ ★ ★

Polygraph Examiners Board

Thursday-Saturday, April 17-19, 1986, 9 a.m. daily. The Polygraph Examiners Board will meet at the Green Oaks Inn and Conference Center, 6901 West Freeway, Fort Worth. According to the agenda, the board will approve the January and March meeting minutes; consider an application for original licensure; the adoption of amendment to Rule 391.3; discuss the letter from Don Taylor; an appearance of Danny Canty; reciprocity with the states of Alabama, Arizona, California, Oklahoma, and Louisiana; a presentation of semi-annual performance and funds management report; and any other polygraph related business that may come before the board.

Contact: Dawn M. Heikkila, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: April 7, 1986, 2:35 p.m.
TRD-8603330

★ ★ ★

Public Utility Commission of Texas

Wednesday, April 9, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition to the agenda for a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned Docket 6095—application of AT&T Communications for a rate increase; appeal of tariff letter of March 25, 1986, has been scheduled. The emergency status was necessary because of the rate case with statutory deadline.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 2:47 p.m.
TRD-8603238

Wednesday, April 9, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition

to the agenda for the meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned Docket 6661—application of West Texas Utilities Company for a certificate of necessity for proposed transmission lines and associated substations within Pecos County. The emergency status was necessary because failure to approve by April 10 would result in increased cost.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 2:45 p.m.
TRD-8603239

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Monday, April 14, 1986, 1:30 p.m. A prehearing conference in Docket 6611—petition of Southwestern Electric Power Company for recovery of unrecovered fuel expense with interest thereon and the setting of revised fixed fuel factors.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 4:27 p.m.
TRD-8603246

Thursday, April 17, 1986, 10 a.m. A prehearing conference in Docket 6292—application of Gulf States Utilities Company to amend a certificate of convenience and necessity to reflect Reroute Line 494.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 2:47 p.m.
TRD-8603240

Monday, April 21, 1986, 8:30 a.m. A prehearing telephone conference in Docket 6778—application of Cap Rock Electric Co-operative, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 4:25 p.m.
TRD-8603245

Thursday, May 8, 1986, 1 p.m. A hearing on the merits in Docket 6764—application of El Paso Electric Company to declare Palo Verde Unit 1 in service.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 2:44 p.m.
TRD-8603241

Tuesday, July 8, 1986, 10 a.m. A hearing on the merits in Docket 6635—application of Mustang Telephone Company for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 4, 1986, 2:46 p.m.
TRD-8603237

★ ★ ★

Railroad Commission of Texas

Monday, April 14, 1986, 9 a.m. The Railroad Commission of Texas will meet in the twelfth floor conference room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: April 4, 1986, 10:55 a.m.
TRD-8603205

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: April 4, 1986, 10:55 a.m.
TRD-8603198

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6787.

Filed: April 4, 1986, 10:57 a.m.
TRD-8603210

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: April 4, 1986, 10:52 a.m.
TRD-8603191

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: April 4, 1986, 10:55 a.m.
TRD-8603206

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters. The commission will consider the signing of final orders in LP-Gas Dockets 470—Highway Pipeline Trucking Company; 483—Ashley Plumbing Company; 484—Haviland's Campers & Trailers, Inc.; 485—Bob Jones R.V. Sales & Service, Inc.; 487—T D Industries, Inc.;

and Docket 469—motion for re-hearing regarding Show Cause Hearing, Jay Mac Mechanical Co., Inc.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

Filed: April 4, 1986, 10:54 a.m.
TRD-8603197

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Timothy A. Poc, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: April 4, 1986, 10:56 a.m.
TRD-8603207

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: April 4, 1986, 10:57 a.m.
TRD-8603212

Consideration of American Pipeline Company's application for a pipeline permit across various counties in Texas.

Contact: Susan Cory, P.O. Box 12967, Austin, Texas 78711, (512) 463-6922.

Filed: April 4, 1986, 10:56 a.m.
TRD-8603209

Oil and Gas Docket 96,420—application of Mary Ann Campbell Musick, for rule 37, Weymouth Fee No. 1, Panhandle (Red Cave), Panhandle Moore County Regular, Panhandle West and Wildcat Fields, Moore County.

Contact: Elizabeth Wilson Davis, P.O. Box 12967, Austin, Texas 78711, (512) 463-6920.

Filed: April 4, 1986, 10:56 a.m.
TRD-8603208

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: April 4, 1986, 10:54 a.m.
TRD-8603195

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: April 4, 1986, 10:58 a.m.
TRD-8603213

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lillie, 1124 IH 35 South, Austin, Texas 78704, (512) 463-7149.

Filed: April 4, 1986, 10:57 a.m.
TRD-8603211

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters; and the incremental bond amount for the Jewett Mine of Northwestern Resources Co. under Permit 15.

Contact: J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

Filed: April 4, 1986, 10:54 a.m.
TRD-8603196

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: April 4, 1986, 10:53 a.m.
TRD-8603192

Wednesday, April 16, 1986, 1:30 p.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the twelfth floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

Contact: Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

Filed: April 4, 1986, 10:58 a.m.
TRD-8603214

★ ★ ★

Texas Real Estate Commission

Monday, April 14, 1986, 9:30 a.m. The Texas Real Estate Commission will meet in the conference room, Texas Real Estate Commission Headquarters, 1101 Camino LaCosta, Austin. According to the agenda summary, the commission will consider minutes of the March 11, 1986, meeting; staff reports for the month of February, 1986; real estate inspector matters; final action on proposed amendments to 22 TAC §537.11 relating to the use of standard contract forms and to 22 TAC §533.18 relating to presiding officers in contested cases; final action on the proposed repeal of 22 TAC §535.201 relating to registered real estate inspectors; education matters; and motions for rehearing and/or probation. The commission also will meet in executive session to discuss pending litigation pursuant to Texas Civil Statutes, Article 6525-17, §2(c).

Contact: Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, (512) 463-3900.

Filed: April 4, 1986, 9:01 a.m.
TRD-8603161

★ ★ ★

Texas Real Estate Research Center

Friday, April 25, 1986, 10:30 a.m. The Advisory Committee of the Texas Real Estate Research Center will meet in The Woodlands Conference Center, The Woodlands. According to the agenda, the committee will approve the minutes; consider progress reports; fiscal year 1986-1987 budget approval; the date of the next meeting; and other business.

Contact: Richard L. Floyd, Texas A&M University, College Station, Texas 77843, (409) 845-9691.

Filed: April 4, 1986, 1:58 p.m.
TRD-8603242

★ ★ ★

Texas Rehabilitation Commission

Monday, April 14, 1986, 9:30 a.m. The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet in the Commissioner's Conference Room, 118 East Riverside Drive, Austin. According to the agenda summary, the board will approve minutes of the March 21, 1986, meeting; consider the budget and planning review; a report from the Aides and Orderlies Task Force; a report from the Applications Review Committee; a report from the Continuing Education Committee; the proposed addition to the rules; and the office report. The board also will meet in executive session.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

Filed: April 4, 1986, 3:36 p.m.
TRD-8603235

★ ★ ★

House of Representatives

Monday, April 7, 1986, 10 a.m. The Veterans Memorial Committee of the House of Representatives met in emergency session in Room 106, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the committee considered the final designs for memorial. The emergency status was necessary because of public necessity.

Contact: Laura Calfee, Room 106, State Capitol, Austin, Texas 78711, (512) 463-0850.

Filed: April 3, 1986, 2:02 p.m.
TRD-8603146

Monday, April 7, 1986, 10 a.m. The Texas Veterans Memorial Committee of the House of Representatives made an emergency addition to the agenda for an emergency meeting held in Room 106, 105 West 15th Street, Austin. The addition concerned the ratification of prior decisions of the committee and its subcommittees relating to: requiring sep-

arate memorials for Korean and for Korean and Vietnam veterans; the selection for memorials; the design criteria and design presentation requirements for memorials; and the establishment of a nonprofit corporation to handle funds for memorials. The emergency status was necessary in order to insure that the construction of the memorials to the Texas Korean and Vietnam Veterans is begun at a time that permits the deadlines imposed by HCR78 of the 69th Legislature be complied with.

Contact: Laura Calfee, P.O. Box 2910, Austin, Texas 78769, (512) 463-0850.

Filed: April 4, 1986, 4:23 p.m.
TRD-8603243

★ ★ ★

Texas Savings and Loan Department

Monday, April 14, 1986, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will consider whether or not to deny the application of Caprock Savings and Loan Association, Lubbock, Lubbock County, to merge with El Paso Federal Savings and Loan Association with Caprock Savings and Loan Association becoming the surviving association.

Contact: Nancy O. Ricketts, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: April 4, 1986, 1:18 p.m.
TRD-8603217

Wednesday, April 16, 1986, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will consider whether to grant or deny the application of Seguin Savings Association, Seguin, Guadalupe County, to change the name to Enterprise Savings Association.

Contact: Nancy O. Ricketts, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: April 4, 1986, 1:16 p.m.
TRD-8603215

Thursday, April 17, 1986, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will consider whether to grant or deny the application of Western Savings Association, Dallas, Dallas County, to establish a branch office at 6420 Highway 290 East, Austin, Travis County.

Contact: Nancy O. Ricketts, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: April 4, 1986, 1:17 p.m.
TRD-8603216

School Land Board

Tuesday, April 15, 1986, 10 a.m. The School Land Board will meet in Room 831, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; discuss pooling applications; lease suspension applications; schedule and procedures for the October 7, 1986 oil, gas, and other minerals lease sale; land trades, El Paso County and Calhoun County; an application for a right-of-way easement across Leander Rehabilitation Facility, Texas Department of Mental Health Mental Retardation, Williamson County; and easement applications for coastal public lands.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: April 7, 1986, 4:19 p.m.
TRD-8603322

★ ★ ★

University System of South Texas

Thursday, April 10, 1986, 10 a.m. The Board of Directors of the University System of South Texas made an emergency addition to the agenda for a meeting held in Room 127, Center for the Arts Building, Corpus Christi State, 6300 Ocean Drive, Corpus Christi. The addition concerned the consideration of signature changes at Texas A&I University. The emergency status was necessary because the vice president for Fiscal Affairs resigned and new signatures must be approved so business at Texas A&I University can be conducted in an orderly manner.

Contact: Dr. Lawrence K. Pettit, P.O. Box 12348, Kingsville, Texas 78363, (512) 595-2215.

Filed: April 3, 1986, 2:05 p.m.
TRD-8603145

★ ★ ★

The University of Texas System

Thursday, April 10, 1986, 4:30 p.m. The Committee on Endowment Lands in Dallas and Collin Counties of the Board of Regents of the University of Texas System met in the Executive Conference Room, Sixth Floor, Administration Building, 301 University Boulevard, Galveston. According to the agenda, the committee considered the negotiated sale of land in Collin County belonging to the University of Texas Dallas; and the recommendation for allocation of proceeds derived therefrom.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

Filed: April 4, 1986, 1:18 p.m.
TRD-8603218

Thursday and Friday, April 10 and 11, 1 p.m. and 9 a.m., respectively. The Board of Regents and Standing Committees of the University of Texas System met in the Caduceus Room, Sixth Floor, Administration Building, 301 University Boulevard, Galveston. According to the agenda, the board considered amendments to the regents' rules and regulations; the replacement of housing system revenue bonds; cash defeasance for endowment and hospital revenue bonds-UTMB-Galveston; policies for preparation of 1988-1989 legislative budget requests; the buildings and grounds matters including authorization for projects, approval of preliminary and final plans; the award contracts; the chancellor's docket (submitted by System Administration); appointments to endowed positions and advisory councils; fee increases; agreements; real estate matters; land and investment matters; acceptance of gifts, bequests and estates; establishment of endowed positions and funds; pending litigation; personnel matters; land acquisition; and negotiated contracts.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

Filed: April 4, 1986, 1:20 p.m.
TRD-8603219

★ ★ ★

Texas Water Commission

Tuesday, April 8, 1986, 2 p.m. The Texas Water Commission met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission considered a request by Sago Produce, Inc., for an emergency order for authorization to discharge 25,000 gallons per day on a 30-day average and 35,000 gallons per day as a daily maximum of treated wastewater from its vegetable processing plant in Webb County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 7, 1986, 4:06 p.m.
TRD-8603320

Monday, April 14, 1986, 10 a.m. The Texas Water Commission will meet in Room 105, John H. Reagan Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will receive testimony concerning the adoption of permanent water rates rules of the agency.

Contact: Debra Nikazy, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 3, 1986, 1:59 p.m.
TRD-8603147

Tuesday, April 15, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will review district bond applications; an amendment for in-

crease; change in plans; the change order; the fire protection plan; water quality; amendments; minor amendments; renewals; a dismissal without prejudice for rate increase; a nunc pro tunc order correcting and amending certificate of adjudication; an amendment to certificate of adjudication; an interagency contract; and temporary permit applications.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 4, 1986, 2:30 p.m.
TRD-8603231

Wednesday, April 16, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider the adoption of commission permanent rules.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 7, 1986, 4:08 p.m.
TRD-8603319

Wednesday, April 16, 1986, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider Application 5033 of C. H. Slator and Deborah Slator and Deborah Slator Gillan.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 7, 1986, 4:08 p.m.
TRD-8603317

Wednesday, April 23, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will determine whether Emergency Order 86-2E granted by the Texas Water Commission on March 26, 1986, to The Hospital Corporation of America-Gulf Coast Medical Center, Box 3004, Wharton, should be affirmed, modified, or set aside by the Texas Water Commission.

Contact: Ramon Dasch, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 4, 1986, 2:30 p.m.
TRD-8603229

Friday, May 2, 1986, 9 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will receive testimony and public comments concerning revisions and additions to the Watershed Protection rules. These rules appeared in part in TAC 31, Chapter 331, 333, and 359. The rules are proposed to be recodified as TAC 31, Chapter 311.

Contact: Pat Barnhard, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: April 7, 1986, 9:24 a.m.
TRD-8603259

Wednesday, May 14, 1986, 9 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet in Room 215, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will review the application by Lockhart Savings and Loan Association, Robb Southerland, Ed Wendler, Sr., and Mark N. Harde- man, doing business as JML Joint Venture, United Bank Tower, Suite 810, 400 West 15th Street, Austin, Proposed Permit 13232-01 in order to authorize the disposal of treated domestic wastewater effluent by irrigation at a volume not to exceed an average rate of 370,000 gallons per day. The applicants proposed to construct wastewater treatment facilities to serve a residential and office/commercial development. The facility will utilize the complete mix activated sludge process. The effluent is to be stored in a 100.8 acre-foot storage lagoon and will be used to irrigate 150 acres of perennial pasture adjacent to the plant site.

Contact: Marcella Sellers, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: April 4, 1986, 2:31 p.m.
TRD-8603230

Wednesday, May 14, 1986, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider a Petition for Creation of Fort Bend County Municipal Utility District 77, containing 194.8 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: April 4, 1986, 2:31 p.m.
TRD-8603233

Wednesday, May 28, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 512, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider the application of Lloyd Hayes and Riverwoods, Inc., doing business as the Forest at Riverbend Development Company, 621-B, East Sixth Street, Austin, for a Proposed Permit 13202-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 912,000 gallons per day from the proposed Riverbend Wastewater Treatment Plant which is to serve a proposed subdivision.

Contact: Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 7, 1986, 4:10 p.m.
TRD-8603318

★ ★ ★

Regional Agencies Meetings Filed April 4

The Central Appraisal District of Rockwall County, Board of Directors, met in the small courtroom, Courthouse, Rockwall, on April 8, 1986, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

The Dallas Area Rapid Transit, Finance Committee, met at 601 Pacific Avenue, Dallas, on April 7, 1986, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Education Service Center Region IX, Board of Directors, will meet at 301 Loop 11, Wichita Falls, on April 11, 1986, at 1:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.

The Hays County Central Appraisal District, Board of Directors, met for a revised agenda at Wimberley State Bank, Wimberley, on April 8, 1986, at 6:30 p.m. Information may be obtained from Lynnell Sedlar, Central Appraisal District, San Marcos, Texas.

The North Plains Water District, Board of Directors, will meet at 702 East First Street, Dumas, on April 11, 1986, at 10 a.m. Information may be obtained from Orval E. Allen, P.O. Box 795, Dumas, Texas 79029, (806) 935-6401.

The Scurry County Appraisal District, Board of Directors, met at K-Bob's Steak House, 4604 College Avenue, Snyder, on April 8, 1986, at noon. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The Upshur County Appraisal District, Board of Directors, will meet at Warren and Trinity Streets, Gilmer, on April 14, 1986, at 7:30 p.m. Information may be obtained from Louise Stracener, (214) 843-3041.

The Wise County Appraisal District, Board of Directors, met at 206 South State Street, Decatur, on April 10, 1986, at 9 a.m. Information may be obtained from Brenda Jones.

TRD-8603162

★ ★ ★

Meetings Filed April 7

The Cass County Appraisal District, Board of Directors, will meet at 208 West Houston Street, Linden, on April 11, 1986, at 8 a.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (214) 756-7545.

The Comal Appraisal District, Board of Directors, met in emergency session at 644 North Loop 337, New Braunfels, on April 7, 1986, at 7:30 p.m. Information may be obtained from Glenn L. Brucks.

The Deep East Texas Council of Governments-Area Agency on Aging, Regional Aging Advisory Council, will meet at the Angelina County Senior Center, 2801 Valley Avenue, Lufkin, on April 11, 1986, at 1:30 p.m. Information may be obtained from Martha Jones, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704.

The Denton County Appraisal District, Board of Directors, met in emergency session at 3911 Morse, Denton, on March 8, 1986, at 3 p.m. Information may be obtained from John Brown, (817) 566-0904.

The Eastland County Appraisal District, Board of Directors, will meet in the Commissioner's Courtroom, Eastland County Courthouse, on April 16, 1986, at 1 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448.

The Education Service Center Region I, Board of Directors, will meet at 1900 West Schunior, Edinburg, on April 15, 1986, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611.

The Education Service Center Region III, Board of Directors, will meet at 1905 Leary Lane, Victoria, on April 14, 1986, at 1 p.m. Information may be obtained from Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901.

The Education Service Center Region XVI, Board of Directors, will meet on the 30th floor, Empire Room South, Amarillo Club, Texas American Bank Building, Seventh and Tyler, Amarillo, on April 17, 1986, at 1 p.m. Information may be obtained from Kenneth M. Laycock, 1601 South Cleveland, Amarillo, Texas (806) 376-5521.

The Golden Crescent Service Delivery Area, Private Industry Council, Inc., met in emergency session in the Sam Houston room, Victoria Bank & Trust, 120 Main Place, Victoria, on April 10, 1986, at 6:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Gray County Appraisal District, Board of Directors, met in Suite 196-A, Hughes Building, 400 West Kingsmill, on April 10, 1986, at 5 p.m. Information may be obtained from Charles Buzzard.

The Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, on April 16, 1986, at noon. Information may be obtained from Sandra

Bollier, (214) 893-9673.

The Houston-Galveston Area Council, Project Review Committee and Board of Directors, will meet in the fourth floor conference room, 3555 Timmons, Houston, on April 15, 1986, at 8:30 a.m. and 9:30 a.m. respectively. Information may be obtained from Aquina Janice, (713) 627-3200, ext. 555.

The Hunt County Tax Appraisal District, Board of Directors, met in the boardroom, 4815-B King Street, Greenville, on April 10, 1986, at 7 p.m. Information may be obtained from Terry G. Bryan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Appraisal District of Jones County, Board of Directors, will meet at 1137 East Court Plaza, Anson, on April 17, 1986, at 8 a.m. Information may be obtained from John Steele.

The Kendall County Appraisal District, Appraisal Review Board, will meet at 207 East San Antonio Street, Boerne, on April 15, 1986, at 8:30 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

The Lamb County Appraisal District, Board of Directors, will meet at 330 Phelps Avenue, Littlefield, on April 17, 1986, at 7:30 p.m. Information may be obtained from Murlene J. Bilbrey, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474.

The Mason County Appraisal District, will meet at 206 Ft. McKavitt Street, Mason, on April 16, 1986, at 5:15 p.m. Information may be obtained from Ann Stapp, P.O. Box 1119, Mason, Texas 76856.

The Nortex Regional Planning Commission, Executive Committee, will meet in the Bounty Room, Trade Winds Motor Hotel, 1212 Broad Street, Wichita Falls, on April 17, 1986, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281.

The Nueces-Jim Wells-Kleberg Soil and Water Conservation District, Board of Directors, will meet at Cottens 3BQ, Highway 77, Robstown, on April 15, 1986, at 7 p.m. Information may be obtained from Carol Freeman, P.O. Box 142, Alice, Texas 78333, (512) 668-9390.

The Palo Pinto Appraisal District, Board of Directors, will meet in the courthouse, Palo Pinto, on April 16, 1986, at 3 p.m. Information may be obtained from Jack Samford, (817) 659-3651, ext. 223 or Edna Beauty, (817) 659-3651, ext. 208.

The South Plains Association of Governments, Executive Committee and Board of Directors, met in emergency session at 3424

Avenue H, Lubbock, on April 8, 1986, at 9 a.m. and 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452, (806) 762-8721.

TRD-8603292

★ ★ ★

Meetings Filed April 8

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 302 South 22nd Street, Temple, on April 17, 1986, at 7:45 p.m. Information may be obtained from Steven B. Schnee.

The Education Service Center, Board of Directors, will meet at 1850 State Highway 351, Abilene, on April 17, 1986, at 5:30 p.m. Information may be obtained from Taressa Huey, Route 1, P.O. Box 70A, Abilene, Texas 79601.

TRD-8603331

★ ★ ★



In **Addition**

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

State Banking Board Correction of Error

A miscellaneous document submitted by the State Banking Board contained an error as published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1589).

The hearing for First State Bank of Mineral Wells will be Tuesday, May 13, 1986, at 9 a.m.

Notice of Hearing

The hearing office of the State Banking Board will conduct a hearing on Wednesday, May 28, 1986, at 9 a.m. at 2601 North Lamar, Austin, Texas, on the charter application for Eastern Hills Bank, Garland, Texas.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603290 William F. Aldridge
Director
Corporate Activities
State Banking Board

Filed: April 7, 1986
For further information, please call (512) 475-1200.

★ ★ ★

Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On March 17, 1986, the banking commissioner received an application to acquire control of the State Bank and Trust Company, Ovilla, by Randy Odom, Waxahachie; Willie Noel, III, Waxahachie; Gary Hillingsworth, Red Oak; and Bruce Hollingsworth, Red Oak.

On April 2, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603155 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed: April 3, 1986
For further information, please call (512) 479-1200.

★ ★ ★

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On April 2, 1986, the banking commissioner received an application to acquire control of Oglesby State Bank, Oglesby, by Beard and Kultgen partnership, Pat Beard and David B. Kultgen, Waco.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603156 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: April 3, 1986
For further information, please call (512) 479-1200.

★ ★ ★

Texas Department of Community Affairs Amendment to Contract Award

On June 14, 1985, pursuant to the provisions of Texas Civil Statutes, Article 6252-11c; a consultant contract was awarded by the Texas Department of Community Affairs to Mexican American Research Center, Inc., to provide training and assistance in community economic development to community groups, elected officials, municipalities, and small businesses under the Job Training Partnership Act (JTPA). Notice is hereby given of the intent to modify the existing contract after 10 days from the date of this publication.

The proposed modification will require the contractor to provide training and assistance to four supplemental target county areas.

The complete name and business address of the consultant is Mexican American Research Center, Inc., 2525 Walling Wood Drive, Suite 115, Austin, Texas 78746.

As proposed, this modification will increase the amount of the original award by \$30,000. The ending date of the contract is extended until June 30, 1986. The original consultant proposal request appeared in the September 28, 1984, issue of the *Texas Register* (9 TexReg 5069).

Issued in Austin, Texas, on April 2, 1986.

TRD-8603116 Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: April 2, 1986
For further information, please call (512) 834-0080.

★ ★ ★

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

| Type of Rate Ceilings Effective Period (Dates are Inclusive) | Consumer ⁽³⁾ Agricultural/ Commercial ⁽⁴⁾ thru \$250,000 | Commercial ⁽⁴⁾ over \$250,000 |
|---|--|--|
| Indicated (Weekly) Rate—Article 1.04(a)(1) 04/07/86-04/13/86 | 18.00% | 18.00% |
| Monthly Rate— Article 1.04(c)(1) 04/01/86-04/30/86 | 18.00% | 18.00% |
| Standard Quarterly Rate—Article 1.04(a)(2) 04/01/86-06/30/86 | 18.00% | 18.00% |
| Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 04/01/86-06/30/86 | 18.00% | N/A |
| Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 04/01/86-06/30/86 | 14.58% | N/A |
| Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 04/01/86-06/30/86 | 18.00% | 18.00% |
| Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 04/01/86-06/30/86 | 18.00% | N/A |
| Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 04/01/86-06/30/86 | 18.00% | N/A |
| Judgment Rate—Article 1.05, §2 04/01/86-04/30/86 | 10.00% | 10.00% |

(1) For variable rate commercial transactions only.
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
(3) Credit for personal, family, or household use.
(4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on March 31, 1986.

TRD-8603187 Al Endsley
Consumer Credit
Commissioner

Filed: April 4, 1986
For further information, please call (512) 479-1280.

★ ★ ★

Office of Court Administration Consultant Contract Award

This consultant award is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the February 21, 1986, issue of the *Texas Register* (11 TexReg 964).

Description of Project. The project includes continuation of development and implementation of case management and caseflow management systems for the trial courts of Texas.

Name and Address of the Consultant. The Justice Institute, California Western School of Law, 350 Cedar Street, San Diego, California 92101.

Total Value and Dates of Contract. The term of this contract began April 1, 1986, ends May 31, 1987, and will not exceed \$34,000.

Due Dates of Documents. All reports and deliverables prepared by the consultant under this contract shall be submitted upon completion throughout the period of performance of this contract.

Issued in Austin, Texas, on April 1, 1986.

TRD-8603154 Jim Hutcheson
General Counsel
Office of Court Administration

Filed: April 3, 1986
For further information, please call (512) 463-1625.

★ ★ ★

General Land Office Correction of Error

Emergency rules adopted on an emergency basis by the General Land Office contained an error as submitted in the March 21, 1986, issue of the *Texas Register* (11 TexReg 1421).

The expiration date of §§4.1-4.6, 4.21-4.25, 4.41-4.49, 4.61-4.63, 4.71-4.79, 4.91-4.100, 4.111-4.118, 4.131-4.133, 4.141-4.144, and 4.151-4.156, should be July 15, 1986.

★ ★ ★

Texas Department of Health Texas Regulations for Control of Radiation

The Texas Department of Health has reformatted 25 TAC §289.1, concerning control of radiation generally. The section adopts by reference the *Texas Regulations for Control of Radiation* (TRCR), with the various parts of the TRCR and the dates that they have been amended shown in subsection (a)(1)-(16). For administrative reasons, the section has been reformatted into 16 separate sections, §§289.111-289.126, under the new heading of Texas Regulations for Control of Radiation. This change has been

made for the purpose of format only; the content remains the same.

Issued in Austin, Texas, on April 4, 1986.

TRD-8803255 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: April 7, 1986

For further information, please call (512) 458-7236.

Texas Department of Human Services Amended Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) published notice of an award of a consultant contract. The request for proposal was published in the May 31, 1985, issue of the *Texas Register* (10 TexReg 1760), and the notice of award was published in the August 23, 1985, issue of the *Texas Register* (10 TexReg 3231).

At this time, the DHS is increasing the total cost of the contract from \$14,000 to \$24,000. This change is effective April 25, 1986. All other information remains the same.

Issued in Austin, Texas, on April 7, 1986.

TRD-8803256 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: April 7, 1986

For further information, please call (512) 450-3786.

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) published notice of an award of a consultant contract. The request for proposal was published in the May 31, 1985, issue of the *Texas Register* (10 TexReg 1760), and the notice of award was published in the August 23, 1985, issue of the *Texas Register* (10 TexReg 3231).

At this time, the DHS is increasing the total cost of the contract from \$14,000 to \$24,000. This change is effective April 25, 1986. All other information remains the same.

Issued in Austin, Texas, on April 7, 1986.

TRD-8803257 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Filed: April 7, 1986

For further information, please call (512) 450-3786.

★ ★ ★

Texas State Library and Archives Commission Consultant Contract Reports

Senate Bill 737 of the 65th Legislature (Texas Civil Statutes, Article 6252-11c) requires state agencies and regional councils of governments to file with the Office of Secretary of State invitations to bid and details on bidding on private consultant contracts expected to exceed \$10,000. Within 10 days of the award of the contract, the agency is required to file with the secretary of state a description of the study

to be conducted, the name of the consultant, the amount of the contract, and the due dates of the reports. Additionally, the Act directs the contracting agencies to file copies of the resulting reports with the Texas State Library. The library is required to compile a list of the reports received and submit the list quarterly for publication in the *Texas Register*.

Below is the list of reports received for the first quarter of 1986. The reports may be examined in Room 310, Texas State Library, 12th and Brazos Streets, Austin.

- Agency: Texas Department of Agriculture.
Consultant: Betsy Peterson.
Title: Folk Art and Texas Agricultural Heritage Grant: Final Report.
- Agency: Texas Department of Corrections.
Consultant: Hennington, Durham, and Richardson.
Title: Comprehensive Criminal Justice Plan.
- Agency: Central Texas Council of Governments.
Consultant: McDonald Transit Associates, Inc.
Title: Transportation Development Plan.
- Agency: Economic Development Commission.
Consultant: B. L. Weinstein and H. T. Gross.
Title: Structural Changes in the Texas Economy and Implications for Revenue Generation.
- Agency: State Department of Highways and Public Transportation.
Consultant: Barry M. Goodman Associates, Inc.
Title: Land Use and Innovative Funding Impacts in a Permanent Busway/Park and Ride Transit System: Work Program.
- Agency: Texas Department of Human Services.
Consultant: National Self-Help Center for the Deaf/H.I., Inc.
Titles: 1. National Self-Help Center for the Deaf: Final Program Report
2. Volunteer Training Manual.
- Agency: Low-Level Radioactive Waste Disposal Authority.
Consultant: Dames and Moore.
Title: Siting of Low-Level Radioactive Waste Disposal Facility in Texas.
- Agency: Texas Department of Public Safety.
Consultant: L. Edwin Garner.
Titles: 1. Sinkhole: Deaf Smith County, Texas
2. State of Texas Comments on DOE/RW-0015: Draft Environmental Assessment (Deaf Smith County, Texas)
3. State of Texas Comments on DOE/RW-0015: Draft Environmental Assessment (Swisher County, Texas).
- Agency: Texas Tourist Development Agency.
Consultant: Pannell Kerr Forster.
Title: Estimated Volume of Out-of-State Overnight Visitors to Texas: First Nine Months 1985.
- Agency: Texas Water Commission.
Consultant: Roy F. Weston, Inc.
Title: Final Site Investigation Report: United Creosoting Company Site, Conroe, Texas.
- Consultant: Lockwood, Andrews and Newnan, Inc.
Title: Remedial Investigation Report, Sikes Disposal Pits, Crosby, Texas.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603153

William D. Gooch
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: April 3, 1986

For further information, please call (512) 463-5460.



Texas Low-Level Radioactive Waste Disposal Authority Notice of Contract Award

Pursuant to Texas Civil Statutes, Article 1011m and 4413 (32g), a contract has been awarded by the Texas Low-Level Radioactive Waste Disposal Authority to the West Texas Council of Governments, Two Civic Center Plaza, El Paso, Texas 79999. The contract is in effect from April 1-August 31, 1987.

Under the contract, the West Texas Council of Governments will sponsor a policy makers' forum to evaluate and develop local public policy related to potential low-level radioactive waste disposal sites located in the Upper Rio Grande planning region. The project will be conducted in four phases: technical analysis, community impact analysis, policy development, and public education. The total value of the contract is \$29,945. Reports will be delivered to the authority after each phase.

Issued in Austin, Texas, on April 3, 1986.

TRD-8603188

Lee H. Mathews
General Counsel
Texas Low-Level Radioactive Waste
Disposal

Filed: April 4, 1986

For further information, please call (512) 451-5295.



North Central Texas Council of Governments DART Transit Education Development Curriculum Program

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

Contact Person. Gregory A. Collins, Administrative Assistant II, North Central Texas Council of Governments, 616 Six Flags Drive, Suite 200, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

Due Date. May 9, 1986, noon, in the office of the previously indicated contact person.

Background. The purpose of this project is to develop a curriculum program for public schools that will promote awareness, usage, and a positive attitude towards public transportation in general and the local transit system in particular. This will be accomplished through a curriculum program that complies with the Texas State Board of Education rules for curriculum. The scope of this project will include the design, development, and production of the overall program and each of its components. This will include at a minimum a teacher's guide, student lessons, related activities, handouts, and tests. The lessons will be developed at various grade levels correlating essential

elements to transportation topics wherever possible. The program will address the curriculum areas of language for lower grades (one, three, five, and seven) and civics/economics for upper grades (nine and eleven). The production phase of the program will include at a minimum illustrations, camera-ready artwork, typesetting, photography, and copywork. This program should be designed so that revisions and updates can easily be accomplished by all participating transportation authorities on a yearly basis.

The North Central Texas Council of Governments, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 United States Code 2000d to 2000d-4, and 49 Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, or national origin in consideration of an award.

The contract will comply with all federal and state laws and regulations applicable to subcontractors, including, but not limited to, equal employment opportunity, the Davis-Bacon Act, and records management.

Issued in Arlington, Texas, on April 1, 1986.

TRD-8603189

William J. Pitstick
Executive Director
North Central Texas Council of
Governments

Filed: April 4, 1986

For further information, please call (817) 640-3300.



Texas State Board of Pharmacy Correction of Error

A proposed rule submitted by the Texas State Board of Pharmacy contained an error as published in the March 25, 1986, issue of the *Texas Register* (11 TexReg 1500).

Section 283.12(9)(B) should read: "The applicant shall pay the fee set out in §283.14(a) of this title (relating to Fee Requirements)."

State Securities Board Correction of Error

Several proposed and adopted sections submitted by the State Securities Board contained errors as published in the March 25, 1986, issue of the *Texas Register*.

On page 1499, §15.2(c) should read: "Investment advisers—additional requirements."

Section 115.2(c)(1) should read: "In addition to the information required to be submitted by subsection (b) of this section, each applicant for registration as an investment adviser must furnish to the commissioner a copy of its standard advisory contract."

On page 1509, the first sentence of §133.15 should read: "The State Securities Board adopts by reference the application for registration as an individual securities dealer or investment adviser, as amended in February 1986."

On page 1510, §133.19 should read: "§133.19. Application for Registration of a Corporation or Partnership as a Securities Dealer or Investment Adviser. The State Securities Board adopts by reference the application for registration of a corporation or partnership as a securities dealer or investment adviser as amended in February 1986. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167."

The title of §133.20 should be "Application for Registration of an Officer or Partner."

The first sentence of §133.24 should be "The State Securities Board adopts by reference the application for registration as a securities salesman, as amended in February 1986."

The first sentence of §133.25 should read: "The State Securities Board adopts by reference the application for transfer of securities salesman's registration, as amended in February 1986."

Southwest Texas State University Consultant Contract Award

This consultant contract award is filed under the provisions of Article 6252-11c. The proposal was published in the October 8, 1986, issue of the *Texas Register* (10 Tex-Reg 3917).

Southwest Texas State University has contracted with Biddle and Associates, Inc., 903 Enterprise Drive, Sacramento, California 95825, to assist with job description validation using the guidelines oriented job analysis (GOJA) method and to provide computer software to be integrated into an IBM-PC to maintain the GOJA system and to produce a classification description, selection plan, test matrix, performance appraisal, and supplemental application form. The contract price is \$85,000.

The contract began on December 1, 1985. On or before July 1, 1986, the contractor will deliver to Southwest Texas State University a report documenting all compensation of tasks of the compensation system, and presenting all components of the recommended classification plan to include a summary of the classification process, identification of career ladders, a summary of benchmark classifications and the comparison employers, evaluation of salary range structure, recommended salary ranges for each classification, and appendices containing the salary and data for the benchmark classes collected from the labor market employers.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603134 Harold G. Oldham
Associate Vice President
Budgeting and Administrative Services
Southwest Texas State University

Filed: April 3, 1986
For further information, please call (512) 475-2358.

★ ★ ★

Texas State Treasury Department Notice of Award of Consulting Contract

This notice of award of consulting service contract is filed pursuant to Texas Civil Statutes, Article 6252-11c(6)(b).

The request for consultant proposals was published in the September 13, 1985, issue of the *Texas Register* (10 Tex-Reg 3527).

The consultant will install two applications of a cash management system that has already been designed by the prior consultant.

The name and address of consultant is Arthur Andersen and Company, 816 Congress Avenue, Suite 1500, Austin, Texas 78701.

The total value of the contract is \$300,000. The contract began on November 13, 1985, and will end when the tasks are completed.

Issued in Austin, Texas, on April 2, 1986.

TRD-8603110 J. Stephen Ravel
General Counsel
Texas State Treasury Department

Filed: April 2, 1986
For further information, please call (512) 463-5971.

★ ★ ★

Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Amfac Foods, Monterey, Inc., doing business as Monterey Mushrooms on April 2, 1986, assessing \$21,520 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ramon Dasch, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on April 3, 1986.

TRD-8603228 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: April 4, 1986
For further information, please call (512) 463-7898.



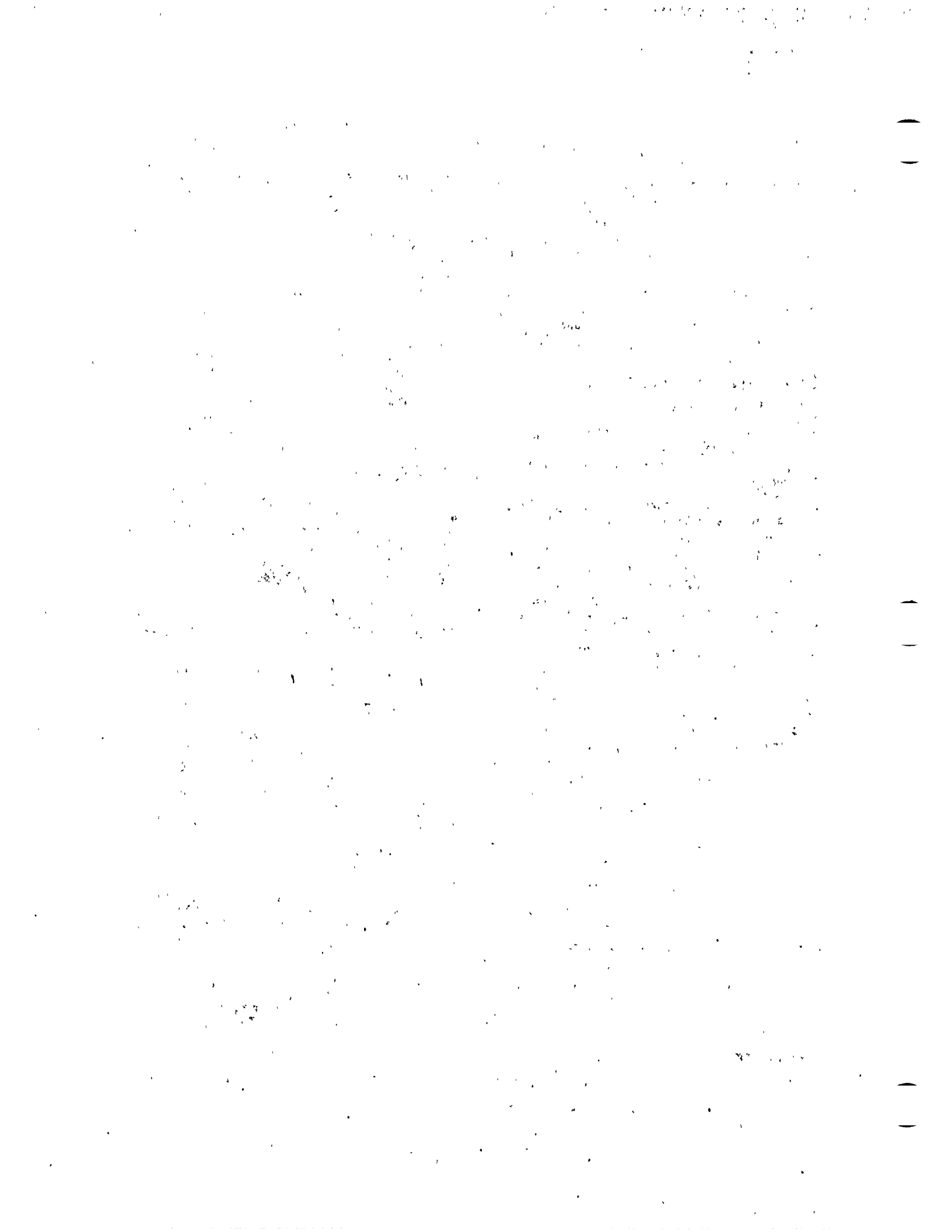


Table of Contents

Proposed Rules

State Board of Morticians

- 1776—Licensing and Enforcement—Specific Substantive Rules

Texas Department of Human Services

- 1776—Primary Home Care
- 1777—CCAD

Texas Department on Aging

- 1778—Implementation of the Omnibus Hunger Act of 1985

Adopted Rules

Texas Department of Labor and Standards

- 1779—Manufactured Housing Division

Texas Department of Human Services

- 1779—Medical Transportation

State Board of Insurance

- 1780—Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

Open Meetings

- 1781—Texas State Board of Dental Examiners

- 1781—East Texas State University

- 1781—Texas Economic Development Commission

- 1781—Texas Commission on Economy and Efficiency in State Government

- 1781—Employees Retirement System of Texas

- 1782—Commission on Fire Protection Personnel Standards and Education

- 1782—Office of the Governor

- 1782—Texas Department of Human Services

- 1782—Texas Industrial Accident Board

- 1783—State Board of Insurance

- 1783—Texas Optometry Board

- 1783—Public Utility Commission of Texas

- 1783—Texas Rehabilitation Commission

- 1783—Texas Senate

- 1783—Sunset Advisory Commission

- 1784—Texas Water Commission

- 1784—Texas Water Development Board

- 1784—Regional Agencies

In Addition

Texas Air Control Board

- 1786—Notice of Contested Cases Hearings

State Banking Board

- 1788—Notice of Hearing

Office of Consumer Credit Commissioner

- 1789—Notice of Rate Ceilings

Texas Economic Development Commission

- 1789—Private Activity Bond Allocation Report

Texas Department of Human Services

- 1790—Consultant Proposal Request

- 1790—Primary Home Care Program Unit Rate Reduction

Texas Department of Mental Health and Mental Retardation

- 1790—Consultant Contract Award

Texas Water Commission

- 1790—Notice of Application for Waste Disposal Permits

TAC Titles Affected

TAC Titles Affected—April

The following is a list of the administrative rules that have been published this month.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

| | |
|---------------|------|
| 4 TAC §21.11 | 1744 |
| 4 TAC §21.51 | 1744 |
| 4 TAC §23.13 | 1680 |
| 4 TAC §23.22 | 1680 |
| 4 TAC §23.41 | 1681 |
| 4 TAC §23.100 | 1681 |

TITLE 7. BANKING AND SECURITIES

Part VI. Credit Union Department

| | |
|--------------------------------------|------|
| 7 TAC §91.205 | 1603 |
| 7 TAC §91.506 | 1648 |
| 7 TAC §95.4, §95.5 | 1648 |
| 7 TAC §§95.101-95.103 | 1648 |
| 7 TAC §§95.201-95.204 | 1648 |
| 7 TAC §95.202 | 1649 |
| 7 TAC §95.204 | 1649 |
| 7 TAC §95.206 | 1649 |
| 7 TAC §95.207 | 1649 |
| 7 TAC §§95.301-95.306, 95.308-95.313 | 1649 |
| 7 TAC §95.313 | 1650 |
| 7 TAC §95.112 | 1650 |

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

| | |
|----------------------------|------|
| 10 TAC §§9.1, 9.2, 9.6-9.8 | 1603 |
|----------------------------|------|

TITLE 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

| | |
|--------------------|------|
| 13 TAC §§51.1-51.7 | 1744 |
| 13 TAC §§53.1-53.4 | 1744 |

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

| | |
|--------------|------|
| 16 TAC §3.14 | 1601 |
|--------------|------|

Part II. Public Utility Commission of Texas

| | |
|---------------|------------------|
| 16 TAC §23.21 | 1702, 1704, 1742 |
|---------------|------------------|

Part IV. Texas Department of Labor and Standards

| | |
|----------------|------|
| 16 TAC §69.125 | 1779 |
|----------------|------|

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

| | |
|-----------------------|------|
| 22 TAC §3.122, §3.123 | 1640 |
|-----------------------|------|

Part II. State Board of Barber Examiners

| | |
|---------------|------|
| 22 TAC §51.53 | 1704 |
| 22 TAC §51.84 | 1705 |
| 22 TAC §51.85 | 1705 |

Part V. State Board of Dental Examiners

| | |
|---------------|------|
| 22 TAC §115.3 | 1607 |
|---------------|------|

Part X. State Board of Morticians

| | |
|---------------|------|
| 22 TAC §203.6 | 1776 |
|---------------|------|

Part XXII. Texas State Board of Public Accountancy

| | |
|----------------|------|
| 22 TAC §511.21 | 1640 |
| 22 TAC §515.4 | 1745 |
| 22 TAC §515.5 | 1745 |
| 22 TAC §515.8 | 1745 |
| 22 TAC §519.27 | 1650 |
| 22 TAC §523.62 | 1650 |

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

| | |
|---|------|
| 25 TAC §§37.83-37.91, 37.93, 37.96, 37.97 | 1706 |
| 25 TAC §37.97 | 1702 |
| 25 TAC §133.21 | 1685 |
| 25 TAC §289.1 | 1616 |

TITLE 28. INSURANCE

Part I. State Board of Insurance

| | |
|------------------------|------|
| 28 TAC §§27.401-27.407 | 1641 |
| 28 TAC §§27.501-27.506 | 1641 |

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

| | |
|--------------|------------|
| 31 TAC §1.91 | 1742, 1745 |
| 31 TAC §13.1 | 1703 |

Part II. Texas Parks and Wildlife Department

| | |
|---|------|
| 31 TAC §53.8, §53.9 | 1607 |
| 31 TAC §§65.6, 65.15, 65.17, 65.33, 65.46, 65.61-65.63, 65.71, 65.78, 65.81 | 1608 |
| 31 TAC §§65.400-65.406 | 1746 |
| 31 TAC §§65.601-65.614 | 1685 |

Part III. Texas Air Control Board

| | |
|----------------|------|
| 31 TAC §101.24 | 1651 |
|----------------|------|

Part IX. Texas Water Commission

| | |
|-------------------------|------|
| 31 TAC §§311.1-311.5 | 1712 |
| 31 TAC §§311.11-311.15 | 1713 |
| 31 TAC §311.21, §311.22 | 1714 |
| 31 TAC §§311.31-311.36 | 1715 |
| 31 TAC §§311.41-311.44 | 1716 |

Part X. Texas Water Development Board

| | |
|---------------------------|------------|
| 31 TAC §§355.101-355.110 | 1653 |
| 31 TAC §§363.1-363.4 | 1718, 1742 |
| 31 TAC §§363.31-363.37 | 1720, 1742 |
| 31 TAC §§363.52-363.60 | 1722, 1742 |
| 31 TAC §§363.81-363.85 | 1726, 1742 |
| 31 TAC §363.111, §363.112 | 1728, 1743 |
| 31 TAC §§363.161-363.165 | 1729, 1743 |
| 31 TAC §363.181 | 1730, 1743 |
| 31 TAC §§367.1-367.3 | 1620 |
| 31 TAC §§367.21-367.30 | 1620 |
| 31 TAC §§367.41-367.50 | 1620 |

Part XVII. Soil and Water Conservation Board

| | |
|-----------------------|------|
| 31 TAC §§521.1-521.11 | 1686 |
|-----------------------|------|

TITLE 34. PUBLIC FINANCE

Part III. Teacher Retirement System of Texas

| | |
|---------------|------|
| 34 TAC §29.26 | 1746 |
|---------------|------|

Part IV. Employees Retirement System

| | |
|---------------|------|
| 34 TAC §73.15 | 1642 |
|---------------|------|

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

| | |
|-----------------------|------|
| 37 TAC §23.13 | 1681 |
| 37 TAC §23.51, §23.52 | 1682 |
| 37 TAC §23.61 | 1682 |
| 37 TAC §23.71, §23.73 | 1683 |

Part VIII. Commission on Fire Protection Personnel Standards and Education

| | |
|----------------|------|
| 37 TAC §233.43 | 1601 |
|----------------|------|

Part IX. Texas Commission on Jail Standards

| | |
|---------------|------|
| 37 TAC §271.2 | 1746 |
|---------------|------|